



Board of Selectmen Meeting

Monday, November 19, 2018 7:00 PM
36 Bartlet Street, Andover, MA 01810
Selectmen's Conference Room

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TOWN CLERK'S OFFICE

2018 NOV 15 P 3:40

TOWN OF ANDOVER, MASS

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- I. Call to Order – 7:00 P.M.
 - II. Opening Ceremonies – 7:00 P.M.
 - A. Moment of Silence/Pledge of Allegiance
 - III. Communications/Announcements/Liaison Reports – 7:05 P.M.
 - IV. Citizens Petitions and Presentations – 7:10 P.M.
 - V. Public Hearings
 - A. 2019 Tax Classification Hearing – (10 minutes)
Board to discuss classification and taxation of all property within the Town
 - B. Capital Improvement Program 2020 – 2024 - (10 minutes)
Town Manager to present the Town Manager's Recommended Capital Improvement Program
 - VI. Regular Business of the Board
 - A. Chateau Restaurant Change in Liquor License – (10 minutes)
Board to approve the application of Chateau Restaurant of Andover, Inc. d/b/a The Chateau Restaurant, 131 River Road for a Change of Manager on its All Alcoholic Beverage Restaurant License; the new Manager to be Michelle Sweet, 49 Old North Road, Hudson, MA
 - B. Gas Disaster Update – (15 minutes)
Board to receive an update on the Gas Disaster
 - C. McLanthan-Barnard Frye House – (10 minutes)
Board to consider voting to sign two original Preservation Restrictions of the McLanthan-Barnard Frye House at 290 Lowell Street
 - D. Special Town Meeting – (15 minutes)
Board to prepare for Special Town Meeting

VII. Consent Agenda

A. Appointments by the Town Manager

That the following appointments by the Town Manager be approved:

Department	Name	Position	Rate/Term	Date of Hire
Municipal Services	Justin Faust	Tree Climber	\$25.91/hour	11/20/18
Facilities	James O'Donnell	Security Guard (PT)	\$21.47/hour	11/23/18
Community Services - Recreation	Grace Ardito	Kid Care Assistant Group Leader	\$12.00/hour	11/30/18
Community Services - Recreation	Christopher Dougherty	Recreation Seasonal	\$11.00/hour	1/3/19
Police	Sobhan Namvar	Community Support Coordinator	\$91,852/annually	12/3/18
Clerk's Office	Jamie Doherty	Records Specialist	\$48,740/annually	12/3/18

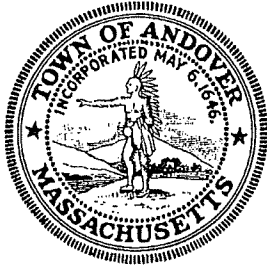
VIII. Approval of Minutes

Board to consider approving minutes from the following meetings: Board of Selectmen Workshop, October 30, 2018

IX. Adjourn

If any member of the public wishing to attend this meeting seeks special accommodations in accordance with the Americans with Disabilities Act, please contact the Town Manager's Office at 978-623-8210 or by email at manager@andoverma.gov.

**MEETINGS ARE TELEVISED ON
COMCAST CHANNEL 22 AND VERIZON CHANNEL 45**



TOWN OF ANDOVER MASSACHUSETTS

Board of Assessors

(978) 623-8930

Fax (978) 623-8993

Town Office

36 Bartlet Street

Andover, Ma 01810

assessor@andoverma.gov

DATE: November 19, 2018

TO: Mr. Alexander J. Vispoli, Chair
And Members of the Board of Selectmen

FROM: David A. Billard, MAA
Board of Assessors

SUBJECT: Classification of Property - Fiscal Year 2019

The Board of Assessors for the Town of Andover has determined the total valuation for all property in Andover for Fiscal Year 2019. The Department of Revenue has granted approval of the FY2019 assessments in Andover. With this approval we can determine the minimum residential factor that may be adopted by the Town of Andover pursuant to Chapter 40, Section 56, and the percentages of the local tax levy that may be borne by each class of property for the Fiscal Year 2019 tax.

In accordance with Chapter 390 of the Acts of 1982, the Andover Board of Selectmen will hold a public hearing on the 19th of November 2018 at 7:00 p.m. in order to determine the following items as they pertain to the Fiscal Year 2019 tax rate:

- 1) The adoption of a residential factor for the purpose of determining the percentage tax load to be borne by each class of property.**

The major decision for the Selectmen is the annual determination of a residential factor in order to determine the tax burden to be borne by each class of property. The Commissioner of Revenue for the Commonwealth of Massachusetts has determined that the residential factor can be a minimum of 83.5696% and a maximum of 100% or a factor of 1. Selection of the minimum residential factor will establish a maximum commercial, industrial and personal property tax shift of 175%. A maximum residential factor of 1 will establish a uniform tax rate for all classes of property. The Selectmen may select either of these factors or any factor in between the two.

2) The determination of a discount factor of up to twenty-five percent (25%) for all land properly identified as "Open Space".

The Board of Selectmen is entitled to grant a discount factor of up to twenty-five percent for all property classified as open space. For Fiscal Year 2019, the Assessors have determined that the value of open space land is \$7,031,800. The Board of Selectmen may elect to discount that value down to a minimum of \$5,273,850. The difference of taxes paid at full value and after the discount is shifted in total to class one, residential property.

3) The determination of a residential exemption factor of up to thirty five percent (35%).

The Board of Selectmen may grant an exemption of not more than thirty five percent (35%) of the **average** value of all Class One, residential property. The exemption is borne by the residential class and may only be applied to residential parcels that are the **principal residence** of the taxpayer as used by the taxpayer for state income tax purposes as of January 1, 2017. The average of all Class One value for Fiscal Year 2019 is \$600,945. (Note that this average includes all Class One value, not just single-family homes. The average single family home for FY2019 is assessed at \$653,104. The maximum discount of 35% allowed for each eligible parcel would therefore be up to \$210,331. Based on these figures, every eligible parcel currently valued at less than \$653,104 would be subjected to a tax reduction. Conversely, each parcel valued greater than \$653,104 would be subjected to a tax increase. The less expensive residential properties would receive a tax reduction while more expensive properties would receive a tax increase.

4) The determination of a small commercial exemption of up to ten percent (10%).

Commercial properties with an assessed value of less than one million dollars and having each and every business in the building appearing on a specific list prepared by the Department of Employment and Training are eligible for a reduction in assessed value of up to ten percent (10%) of the existing assessed value. The resultant reduction in value and tax is to be borne by ineligible commercial and industrial property.

The information that follows in this packet is submitted to the Board of Selectmen to assist in understanding the impact of their votes. All tax rates and tax levy amounts are estimated in this document. The actual tax levy and the resultant tax rate/s cannot be calculated until the Board of Selectmen completes the Fiscal Year 2019 classification process. Should you have any questions or require other material, please do not hesitate to contact me at (978) 623-8930.

Respectfully submitted,
David Billard,
Chief Assessor

Fiscal Year 2019 Property Valuation Changes

FY2019 assessments were derived by using calendar year 2017 sales. Assessment adjustments to single family homes overall were a 6.3% increase. Condominium assessments increased overall by 4.1%. Two and three family homes had assessment increases of 7.8% as a class. Commercial property assessments increased as a class by 2.2% and industrial properties increased as a class by 4.7%. Overall, assessment changes due to market activity were higher in FY2019 than in the past two previous years. Sales activity occurring in calendar year 2018 will be analyzed and used to adjust assessments for FY2020; which is a state audited revaluation year.

FY2018 assessments were derived by using calendar year 2016 sales. Assessment adjustments to single family homes overall were small, with overall adjustments being than 1.1% as a class. Condominium assessments increased overall +2.2%. Commercial property assessments increased as a class by .6% and industrial properties increased as a class by .4%. Overall, assessment changes due to market activity were smaller for FY2017, with the exception of multi- family and apartment properties, which increased 7.4% and 3.6% respectively. Sales activity occurring in calendar year 2017 will be analyzed and used to adjust assessments for FY2019.

Fiscal Year 2019 Classification Data

1. Total Assessed Value by Class - Fiscal Years 2018 to 2019 Comparison

The following chart compares the Fiscal Years 2018 and 2019 total assessed values of property by class. The total assessed value of all property in Andover increased by \$522,107,581. The class breakdown for the percentage changes are shown on the following table:

Property Class	Fiscal 2018 Value	Fiscal 2019 Value	% Change
Residential	\$6,340,627,455	\$6,818,924,895	+7.54%
Open Space	\$7,256,800	\$7,031,800	-3.10%
Commercial	\$588,216,151	\$605,393,222	+2.92%
Industrial	\$608,062,200	\$639,205,100	+5.12%
Personal Property	\$255,067,239	\$250,782,409	-1.68%
TOTAL	\$7,799,229,845	\$8,321,337,426	+6.69%

2. Total Assessed Value Residential v. Commercial Class - Fiscal Years 2018 to 2019 Comparison

The following chart compares the Fiscal Year 2018 property values of residential and commercial (CIP) property to Fiscal Year 2019 totals.

Property Class	Fiscal 2018 Value	Fiscal 2019 Value	% Change
Res. & Open Space	\$6,347,884,255	\$6,825,956,695	+7.53 %
CIP	\$1,451,345,590	\$1,495,380,731	+3.03 %
TOTAL	\$7,799,229,845	\$8,321,337,426	+6.69 %

Estimated Tax Rates for Fiscal Year 2019

The levy limit for Fiscal Year 2019 is \$146,503,847. This amount includes \$3,902,896 for the school construction and Public Safety debt overrides. The estimated excess levy capacity for Fiscal Year 2019 is \$1,101,431. This will change when the tax rate is calculated due to rounding. The calculation of the excess levy capacity is done as follows.

Fiscal Year	Tax Levy Limit	Amount Levied	Excess Levy Amount
2019 (Estimated)	\$146,503,847	\$145,402,416	\$1,101,431
2018 (Actual)	\$140,458,434	\$139,352,561	\$1,105,873

The following table projects Fiscal Year 2019 estimated tax rates using various factors. **The FY2018 Shift Factor was 154.5%, which produced a residential rate of \$15.64 and a commercial rate of \$27.61 for FY2018.**

Residential Factor	Resulting CIP Shift Factor (%)	Residential Rate	Commercial Rate
1.00	100	\$17.47	\$17.47
95.6186	120	\$16.71	\$20.97
93.4278	130	\$16.33	\$22.72
91.2371	140	\$15.94	\$24.46
89.0464	150	\$15.56	\$26.21
87.5129	157	\$15.29	\$27.43
87.4034	157.5	\$15.27	\$27.52
87.2938	158	\$15.25	\$27.61
87.1843	158.5	\$15.23	\$27.70
87.0747	159	\$15.21	\$27.78
86.9625	159.5	\$15.20	\$27.87
86.8557	160	\$15.18	\$27.96
84.6650	170	\$14.79	\$29.70
83.5696	175	\$14.60	\$30.58

If you were to choose to keep the **same percentage shares** of the levy by class, so that residential and open space; and the commercial, industrial and personal property classes would pick up the same aggregate percentage of the levy as they did in Fiscal Year 2018, **you would need to vote a residential factor of 86.8557** equating to a 160 shift. By adopting this factor the average residential tax bill would increase by 3.4%, the average commercial tax bill would increase by 5.6% and the average industrial tax bill would increase by 6.5%.

If you were to choose to keep the **tax increases as uniform as possible** by class, **then a vote of a residential factor of 87.4034 would have to be adopted**, equating to a shift factor of 157.5 . By adopting this factor the average residential tax bill would increase

by 4.0%, the average commercial tax bill would increase by 3.9% and the average industrial tax bill would increase by 4.8%.

If you were to choose to keep **the same shift factor constant** at a 154.5 shift, **you would need to vote a residential factor of 88.0606**. Should the Fiscal Year 2019 shift factor remain at 154.5, the average single family tax bill would increase by about 4.8% while the average commercial tax bill would increase by 2.0% and the average industrial tax bill would increase by 2.8%.

The average single family value increased from \$613,261 to \$653,104 while the average commercial value increased from \$2,108,567 to \$2,198,398 and the average industrial value increased from \$4,338,749 to \$4,561,025.

**TOWN OF ANDOVER
LEVY SHARE AT FULL VALUE**

FISCAL YEAR	RES/OPN SPACE	RESID %	COMM/IND/PERSPROP	CIP %
2018	6,347,884,255	81.39%	1,451,345,590	18.61%
2017	6,191,555,580	80.77%	1,473,754,609	19.23%
2016	6,117,465,085	81.11%	1,425,011,097	18.89%
2015	5,801,226,330	80.24%	1,428,720,404	19.76%
2014	5,483,302,185	80.16%	1,357,223,951	19.84%
2013	5,450,304,845	80.12%	1,352,415,081	19.88%
2012	5,448,632,321	80.14%	1,349,872,925	19.86%
2011	5,269,717,961	79.64%	1,346,833,601	20.36%
2010	5,473,846,761	80.05%	1,363,810,483	19.95%
2009	5,765,913,581	80.52%	1,394,556,782	19.48%
2008	5,815,988,951	81.01%	1,363,764,124	18.99%
2007	5,868,699,641	81.61%	1,322,335,643	18.39%

HISTORICAL TAX RATES

FISCAL	RES/OPN SPACE	COMM/IND PERS PROP	UNCLASSIFIED RATE
2018	\$15.64	\$27.61	\$17.87
2017	\$15.18	\$26.46	\$17.36
2016	\$14.82	\$25.99	\$16.93
2015	\$14.97	\$24.77	\$16.91
2014	\$15.18	\$25.25	\$17.18
2013	\$14.51	\$24.26	\$16.45
2012	\$14.15	\$23.54	\$16.02
2011	\$14.12	\$22.46	\$15.82
2010	\$13.19	\$21.33	\$14.81
2009	\$12.16	\$19.98	\$13.68
2008	\$11.69	\$19.13	\$13.11
2007	\$11.25	\$18.33	\$12.56

CLASSIFICATION FACTORS

FISCAL YEAR	SHIFT
2018	154.5
2017	152.5
2016	153.5
2015	146.5
2014	147
2013	147.5
2012	147
2011	142
2010	144
2009	146
2008	146
2007	146

SHIFT EFFECTS OF CLASSIFICATION FY2018

SHIFT	AVERAGE SINGLE FAM ASSESSMENT	% DECREASE	AVERAGE COMM ASSESSMENT	AVERAGE INDUSTRIAL ASSESSMENT
FY2019	653,104		2,198,398	4,561,025
100	\$11,409.73		\$38,406.01	\$79,681.11
120	\$10,913.37	-4.4%	\$46,100.41	\$95,644.69
130	\$10,665.19	-6.5%	\$49,947.60	\$103,626.49
140	\$10,410.48	-8.8%	\$53,772.82	\$111,562.67
150	\$10,162.30	-10.9%	\$57,620.01	\$119,544.47
151	\$10,136.17	-11.2%	\$57,993.74	\$120,319.84
152	\$10,110.05	-11.4%	\$58,389.45	\$121,140.82
153	\$10,083.93	-11.6%	\$58,763.18	\$121,916.20
154	\$10,064.33	-11.8%	\$59,158.89	\$122,737.18
155	\$10,038.21	-12.0%	\$59,532.62	\$123,512.56
156	\$10,012.08	-12.2%	\$59,928.33	\$124,333.54
160	\$9,914.12	-13.1%	\$61,467.21	\$127,526.26
170	\$9,659.41	-15.3%	\$65,292.42	\$135,462.44
175	\$9,535.32	-16.4%	\$67,227.01	\$139,476.14

With the maximum shift of 175, the residential taxpayer saves a maximum of 16.4% from the \$11,409.73 tax with no split.

ANDOVER AVERAGE SINGLE FAMILY TAX BILL

FISCAL YEAR	AVG VALUE	TAX RATE	AVG TAX BILL	% CHANGE	TAX FACTOR
FY2018	\$613,261	\$15.64	\$9,591.40	4.60%	154.5%
FY2017	\$604,053	\$15.18	\$9,169.52	2.51%	152.5%
FY2016	\$603,550	\$14.82	\$8,944.61	3.43%	153.5%
FY2015	\$577,689	\$14.97	\$8,648.00	3.65%	146.5%
FY2014	\$549,662	\$15.18	\$8,343.87	4.73%	147.0%
FY2013	\$549,057	\$14.51	\$7,966.82	2.33%	147.5%
FY2012	\$550,219	\$14.15	\$7,785.60	4.08%	147.0%
FY2011	\$529,775	\$14.12	\$7,480.42	3.33%	142.0%
FY2010	\$548,860	\$13.19	\$7,239.46	2.63%	144.0%
FY2009	\$580,100	\$12.16	\$7,054.02	3.76%	146.0%
10 YEAR AVERAGE				3.50%	
5 YEAR AVERAGE				3.78%	

PERCENTAGE CHANGES IN PROPERTY TYPE VALUES

CLASS	VALUE FY2018	VALUE FY20119	VALUE CHANGE	PERCENT CHANGE
Single Family	5,281,400,200	5,631,065,600	\$349,665,400	6.62%
Condominium	516,561,900	571,908,800	\$55,346,900	10.71%
2 & 3 Family	109,769,000	116,213,000	\$6,444,000	5.87%
Multi-Family	266,518,700	326,484,500	\$59,965,800	22.50%
Vacant Land	48,377,500	49,430,000	\$1,052,500	2.18%
Other Residential	118,000,155	123,822,995	\$5,822,840	4.93%
Open Space	7,256,800	7,031,800	-\$225,000	-3.10%
Commercial	588,216,151	605,393,222	\$17,177,071	2.92%
Industrial	608,062,200	639,205,100	\$31,142,900	5.12%
Personal Property	255,067,239	250,782,409	-\$4,284,830	-1.68%
TOTAL	7,799,229,845	8,321,337,426	\$522,107,581	6.69%

COMMUNITY COMPARISON OF FY2018 TAX RATES

COMMUNITY	RSDNTL RATE	COM/IND RATE
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ACTON	\$19.38	\$19.38
ANDOVER	\$15.64	\$27.61
ARLINGTON	\$12.13	\$12.13
BEDFORD	\$13.74	\$30.38
BELMONT	\$12.15	\$12.15
CANTON	\$12.42	\$25.86
CONCORD	\$14.29	\$14.29
DUXBURY	\$15.16	\$15.16
HINGHAM	\$11.77	\$11.77
LEXINGTON	\$14.30	\$27.69
MARBLEHEAD	\$11.02	\$11.02
NATICK	\$13.05	\$13.05
NEEDHAM	\$11.88	\$23.46
NORWELL	\$16.34	\$16.34
SUDBURY	\$17.93	\$24.30
WAYLAND	\$18.03	\$18.03
WELLESLEY	\$11.95	\$11.95
WESTWOOD	\$15.09	\$29.30

FY2019 DISTRIBUTION OF SINGLE FAMILY HOME PARCELS

VALUE RANGE	NUMBER OF PARCELS	PERCENT OF TOTAL (COUNT)	AGGREGATE VALUE	PERCENT OF TOTAL (VALUE)
0 to 300,000	67	0.8%	17,511,200	0.31%
300,001 to 400,000	460	5.3%	167,563,100	2.98%
400,001 to 500,000	1,698	19.7%	775,652,600	13.77%
500,001 to 600,000	2,229	25.9%	1,224,137,000	21.74%
600,001 to 700,000	1,619	18.8%	1,041,770,100	18.50%
700,001 to 800,000	859	10.0%	640,644,500	11.38%
800,001 to 900,000	667	7.7%	566,063,900	10.05%
900,001 to 1,000,000	356	4.1%	336,769,300	5.98%
1,000,001 to 1,100,000	255	3.0%	266,837,700	4.74%
1,100,001 to 1,200,000	130	1.5%	149,449,000	2.65%
1,200,001 to 1,300,000	73	0.8%	91,495,600	1.62%
1,300,001 to 1,400,000	62	0.7%	83,384,100	1.48%
1,400,001 to 1,500,000	46	0.5%	66,576,600	1.18%
1,500,001 to 2,000,000	65	0.8%	108,977,300	1.94%
2,000,000 AND UP	36	0.4%	94,233,600	1.67%
	8,622	100.0%		

FY2019 DISTRIBUTION OF COMMERCIAL AND INDUSTRIAL PARCELS

VALUE RANGE	NUMBER OF PARCELS	PERCENT OF TOTAL (COUNT)	AGGREGATE VALUE	PERCENT OF TOTAL (VALUE)
0 to 1,000,000	262	65.0%	87,571,400	7.20%
1,000,001 to 2,000,000	40	9.9%	55,322,900	4.55%
2,000,001 to 4,000,000	31	7.7%	89,077,300	7.32%
4,000,001 to 6,000,000	14	3.5%	65,479,500	5.38%
6,000,001 to 8,000,000	15	3.7%	105,539,400	8.67%
8,000,001 to 10,000,000	13	3.2%	118,141,700	9.71%
10,000,001 to 12,000,000	4	1.0%	44,573,900	3.66%
12,000,001 to 14,000,000	5	1.2%	62,280,500	5.12%
14,000,001 to 16,000,000	4	1.0%	59,955,400	4.93%
16,000,001 to 18,000,000	0	0.0%	0	0.00%
18,000,001 to 20,000,000	2	0.5%	38,634,100	3.18%
20,000,001 to 22,000,000	1	0.2%	21,275,500	1.75%
22,000,001 to 24,000,000	1	0.2%	23,623,800	1.94%
24,000,001 to 26,000,000	1	0.2%	25,705,400	2.11%
26,000,001 to 28,000,000	2	0.5%	53,975,300	4.44%
28,000,001 to 30,000,000	0	0.0%	0	0.00%
30,000,001 to 32,000,000	1	0.2%	31,214,800	2.57%
32,000,001 AND UP	7	1.7%	334,351,200	27.48%
	403	100.0%		

Average tax bill increases at 5 year and 10 year averages

Effects of FY2019 shift on 5 and 10 year averages

AVERAGE		AVERAGE		AVERAGE		AVERAGE		AVERAGE	
FISCAL YEAR	SINGLE FAMILY	SINGLE FAMILY TAX	TAX BILL INCREASE	COMM VALUE	AVERAGE COMM TAX	TAX BILL INCREASE	INDUST VALUE	AVERAGE INDUST TAX	TAX BILL INCREASE
2018	613,260	\$9,591	4.60%	2,108,567	58,218	5.30%	4,338,749	\$119,793	6.20%
2017	604,053	\$9,170	2.51%	2,089,455	55,287	2.84%	4,262,878	\$112,796	2.23%
2016	603,550	\$8,945	3.43%	2,068,524	53,761	3.63%	4,245,399	\$110,338	4.52%
2015	577,689	\$8,648	3.65%	2,094,392	51,878	3.77%	4,261,954	\$105,569	5.85%
2014	549,622	\$8,343	4.73%	1,979,913	49,993	3.52%	3,546,256	\$89,543	5.89%
2013	549,057	\$7,967	2.55%	1,990,558	48,291	2.44%	3,485,790	\$84,565	2.22%
2012	549,043	\$7,769	3.86%	2,002,639	47,142	3.95%	3,514,422	\$82,729	2.11%
2011	529,775	\$7,480	3.33%	2,019,107	45,349	3.08%	3,607,335	\$81,021	-0.38%
2010	548,860	\$7,239	2.63%	2,062,520	43,994	2.68%	3,812,815	\$81,327	2.66%
2009	580,087	\$7,054	3.76%	2,144,438	42,846	2.91%	3,964,814	\$79,217	5.06%
5 yr avg	2018-2014	AVERAGE	3.78%			3.81%			4.94%
10 yr avg	2018-2009	AVERAGE	3.50%			3.41%			3.64%

2019	653,104	\$10,052	4.81%	2,198,398	59,357	1.96%	4,561,025	\$123,148	2.80%	154.5
2018	613,260	\$9,591	4.60%	2,108,567	58,218	5.30%	4,338,749	\$119,793	6.20%	154.5
2017	604,053	\$9,170	2.51%	2,089,455	55,287	2.84%	4,262,878	\$112,796	2.23%	152
2016	603,550	8,945	3.43%	2,068,524	53,761	3.63%	4,245,399	110,338	4.52%	153.5
2015	577,689	8,648	3.65%	2,094,392	51,878	3.77%	4,261,954	105,569	5.85%	146.5
2014	549,622	8,343	4.73%	1,979,913	49,993	3.52%	3,546,256	89,543	5.89%	147.0
2013	549,057	7,967	2.55%	1,990,558	48,291	2.44%	3,485,790	84,565	2.22%	147.5
2012	549,043	7,769	3.86%	2,002,639	47,142	3.95%	3,514,422	82,729	2.11%	147.0
2011	529,775	7,480	3.33%	2,019,107	45,349	3.08%	3,607,335	81,021	-0.38%	142.0
2010	548,860	7,239	2.63%	2,062,520	43,994	2.68%	3,812,815	81,327	2.66%	144.0
5 yr avg	2016-2012	AVERAGE	3.80%			3.50%			4.32%	
10 yr avg	2016-2007	AVERAGE	3.61%			3.32%			3.41%	
2019	653,104	\$9,973	3.98%	2,198,398	60,500	3.92%	4,561,025	\$125,519	4.78%	157.5
2018	613,261	\$9,591	4.60%	2,108,567	58,218	5.30%	4,338,749	\$119,793	6.20%	154.5
2017	604,053	\$9,170	2.51%	2,089,455	55,287	2.84%	4,262,878	\$112,796	2.23%	152

2016	603,550	8,945	3.43%	2,068,524	53,761	3.63%	4,245,399	110,338	4.52%	153.5
2015	577,689	8,648	3.65%	2,094,392	51,878	3.77%	4,261,954	105,569	5.85%	146.5
2014	549,622	8,343	4.73%	1,979,913	49,993	3.52%	3,546,256	89,543	5.89%	147.0
2013	549,057	7,967	2.55%	1,990,558	48,291	2.44%	3,485,790	84,565	2.22%	147.5
2012	549,043	7,769	3.86%	2,002,639	47,142	3.95%	3,514,422	82,729	2.11%	147.0
2011	529,775	7,480	3.33%	2,019,107	45,349	3.08%	3,607,335	81,021	-0.38%	142.0
2010	548,860	7,239	2.63%	2,062,520	43,994	2.68%	3,812,815	81,327	2.66%	144.0
5 yr avg	2016-2012	AVERAGE	3.64%			3.89%			4.72%	
10 yr avg	2016-2007	AVERAGE	3.53%			3.51%			3.61%	
2019	653,104	\$9,914	3.36%	2,198,398	61,467	5.58%	4,561,025	\$127,526	6.46%	160
2018	613,261	\$9,591	4.60%	2,108,567	58,218	5.30%	4,338,749	\$119,793	6.20%	154.5
2017	604,053	\$9,170	2.51%	2,089,455	55,287	2.84%	4,262,878	\$112,796	2.23%	152
2016	603,550	8,945	3.43%	2,068,524	53,761	3.63%	4,245,399	110,338	4.52%	153.5
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2010	548,860	7,239	2.63%	2,062,520	43,994	2.68%	3,812,815	81,327	2.66%	144.0
5 yr avg	2016-2012	AVERAGE	3.51%			4.22%			5.05%	
10 yr avg	2016-2007	AVERAGE	3.46%			3.68%			3.78%	



Town of Andover
BOARD OF SELECTMEN

License and Permit Application Public Hearing Questionnaire

Please be willing and able to address these questions before the Board of Selectmen during your hearing.

Liquor License Application, Renewal, Change of Designated Manager

Name	MICHELLE SWEET
Address	131 RIVER ROAD
Title	GENERAL MANAGER
Company	CHATEAU RESTAURANT OF ANDOVER
Are all employees who will be serving alcohol TIPS certified?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Does the establishment or any employees have any prior violations in terms of liquor license compliance?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If yes, please describe the nature of any violations	
Please describe your business and the plans that have brought you before the Board this evening.	LARGE CAPACITY RESTAURANT, BAR, AND FUNCTION FACILITY. MANAGEMENT CHANGE
Please provide an overview of qualifications, certifications, and experience of the designated manager of the establishment.	OVER 20 YEARS RESTAURANT MANAGEMENT EXPERIENCE, SERV SAFE CERTIFICATIONS FOR BOTH FOOD AND ALCOHOL.

Chateau Restaurant of Andover, Inc. Motion
Change of Manager

I move to approve the application of Chateau Restaurant of Andover, Inc. d/b/a The Chateau Restaurant, 131 River Road for a Change of Manager on its All Alcoholic Beverage Restaurant License; the new Manager to be Michelle Sweet, 49 Old North Road, Hudson, MA., subject to the condition that all other requirements of the Town are met prior to issuance of the license.

Moved by _____

Seconded by _____

Voted _____ to _____

JOHNSON &
BORENSTEIN, LLC
ATTORNEYS AT LAW

12 Chestnut Street
Andover, MA 01810-3706
Tel: 978-475-4488
Fax: 978-475-6703
www.jbllclaw.com
mark@jbllclaw.com

Mark B. Johnson (MA, NH, DC)
Donald F. Borenstein (MA, ME, NH)

Rachel Davis Baime (MA)
Gregory R. Richard (MA, NH)
Kathleen M. Heyer (MA, NH)
Thomas D. Orr (MA)

Of Counsel

Robert W. Lavoie (MA, NH)
Lorri S. Gill (MA)

Paralegals

Karen L. Bussell
Danielle R. Corey
Lianne Patenaude
Ellen M. Melvin
Tina M. Wilson

November 2, 2018

Andrew Flanagan, Town Manager
Town of Andover
36 Bartlet Street
Andover, MA 01810

Re: 290 Lowell Street, Andover, Massachusetts (Lot A)
McLanthan-Barnard Frye House

Dear Andrew:

Enclosed you will find two (2) original Preservation Restrictions in a form approved by the Massachusetts Historic Commission, has been signed by the Andover Preservation Commission and approved by the Andover Zoning Board of Appeals. It has also been approved by Town Counsel. I would appreciate if you could place this matter on the Board of Selectmen agenda for Monday, November 19, 2018. Once it signed by the Selectmen, it has to go back to the Mass. Historic Commission for their final signature.

Should you have any questions, please feel free to contact me.

Very truly yours,

JOHNSON & BORENSTEIN, LLC

Mark B. Johnson

MBJ~klb
Enclosures

(Space Above this Line Reserved for Registry of Deeds)

PRESERVATION RESTRICTION AGREEMENT

The parties to this Agreement are the Town of Andover, by and through the Andover Preservation Commission located at 36 Bartlett Street, Andover, Massachusetts, hereinafter referred to as the Grantee, and O'Brien Homes, Inc. having a place of business at 18 Cassimere St, Andover, MA, hereinafter referred to as the Grantor.

WHEREAS, the Grantor is the owner in fee simple of certain real property with improvements thereon known as the McLanthan-Barnard-Frye House located at 290 Lowell Street in Andover, Massachusetts, hereinafter referred to as the "Parent Parcel", which is described in Grantor's Deed recorded at the Northern Essex County Registry of Deeds in Book 14112, page 167, and in **Exhibit A**, attached hereto and incorporated herein by reference. The Parent Parcel is further described as lot 171 on a plan entitled "Plan of Land in Andover, Mass. as Subdivided by John Philip Enterprise, Inc.", dated March 2, 1960, prepared by Clinton F. Goodwin, Registered Professional Engineer, and recorded at the Northern Essex Registry of Deeds as Plan Number 4164. A copy of said plan is attached hereto and incorporated herein by reference as **Exhibit B**. The portion of the Parent Parcel containing the McLanthan-Barnard-Frye House, said portion hereinafter referred to as the "Premises", is depicted as Lot A on a plan entitled "Plan of Land in Andover, Mass. Prepared for O'Brien Homes, Inc.", dated October 12, 2017, prepared by Andover Consultants, Inc., and recorded with the Northern Essex Registry of Deeds as Plan Number _____. A copy of said plan is attached hereto and incorporated herein by reference as **Exhibit C**.

WHEREAS, the Grantor wishes to impose certain restrictions, obligations and duties upon it as the owner of the Premises and on the successors to its right, title and interest therein, with respect to maintenance, protection, and preservation of the existing McLanthan-Barnard-Frye House (the “House”) located on the Premises in order to protect the architectural, archaeological and historical integrity thereof;

WHEREAS, the Grantee is a government body organized under the laws of the Commonwealth of Massachusetts and is authorized to accept these preservation restrictions under the Act;

WHEREAS, this Preservation Restriction is in accordance with the Andover Zoning Board of Appeals (“ZBA”) Decision No. Z-17-105, dated December 8, 2017;

WHEREAS, said House is an architecturally and historically significant structure meriting the protections of a perpetual Preservation Restriction Agreement under M.G.L. Chapter 184, §§ 31-33; and

WHEREAS, the preservation of the Premises with the House is important to the public for the enjoyment and appreciation of its architectural, archaeological and historical heritage and will serve the public interest in a manner consistent with the purposes of M.G.L. Chapter 184, §§ 31, 32 and 33, hereinafter referred to as the Act.

NOW, THEREFORE, for good and valuable consideration, the Grantor conveys to the Grantee the following preservation restrictions which shall apply in perpetuity to the Premises. These preservation restrictions are set forth so as to ensure the preservation of those characteristics which contribute to the architectural, archaeological and historical integrity of the Premises which have been listed on the Andover Historic Building Survey (a copy of the inventory form is attached hereto as **Exhibit D**).

Characteristics which contribute to the architectural, archaeological and historical integrity of the House include, but are not limited to, the artifacts, features, materials, appearance, and workmanship of the House, including those characteristics which originally qualified the House for listing in the Andover Historic Building Survey. The terms of the Preservation Restriction are as follows:

1. MAINTENANCE OF PREMISES. After the completion of the work authorized by the ZBA pursuant to Decision No. Z-17-105 (recorded with the Registry of Deed in Book 15351, Page 333, and which is attached to this Agreement as **Exhibit E**

and is hereby incorporated by reference), including subdividing the Parent Parcel into two parcels, one of which (Lot A the Premises) will contain the House, in substantial conformity with the Plot Plan prepared by Andover Consultants, Inc., dated October 12, 2017, on file with the ZBA (referred to herein as the “Plan”); the Grantor and its successors and assigns shall be responsible for the continued maintenance, repair and administration of the exterior of the House and Premises so as to preserve the characteristics which contribute to the architectural, archaeological and historical integrity of the House and Premises in a manner satisfactory to the Grantee according to the Secretary of the Interior’s “*Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings*” (36 C.F.R. 67 and 68), as these may be amended from time to time (hereinafter “the *Secretary’s Standards*”).” The Grantor may seek financial assistance from any source available to it. The Grantee does not assume any obligation for maintaining, repairing or administering the Premises.

2. INSPECTIONS. The Grantor agrees that the Grantee may inspect the Premises from time to time upon reasonable notice to determine whether the Grantor is in compliance with the terms of this Agreement.

3. INSURANCE. Grantor shall keep the Premises insured by an insurance company rated “A” or better by Best’s for the full replacement value against loss from perils commonly insured under standard fire and extended coverage policies and comprehensive general liability insurance against claims for personal injury, death and property damage. The Grantor shall deliver to the Grantee, within ten (10) business days of the Grantee’s written request thereof, certificates of such insurance coverage. Provided, however, that whenever the Premises are encumbered with a mortgage or deed of trust, nothing contained in this paragraph shall jeopardize the prior claim, if any, of the mortgagee/lender to the insurance proceeds.

4. ALTERATIONS. The Grantor agrees that no exterior alterations, changes or additions shall be made to the House and Premises beyond those shown on the Plan, unless such alterations, changes or addition (a) is approved as a minor modification by the Andover Preservation Commission; (b) is authorized by the Andover ZBA Decision No. Z-17-105; (c) is clearly of minor nature and not affecting the characteristics which

contribute to the architectural, archaeological or historical integrity of the House, or (d) the Grantee has previously determined that it will not impair such characteristics after reviewing plans and specifications submitted by the Grantor, (in its review the Grantee will apply the *Secretary's Standards* to all proposed work), or (e) required by casualty or other emergency promptly reported to the Grantee. Ordinary maintenance and repair of the House may be made without the written permission of the Grantee. For purposes of this section, interpretation of what constitutes alterations of a minor nature and ordinary maintenance and repair shall be governed by the terms of the Restriction Guidelines relating to exterior of the structure, which are attached to this Agreement as **Exhibit F** and hereby incorporated by reference, provided, however that all work authorized by the ZBA pursuant to Decision No. Z-17-105 and the Plan approved by the ZBA in connection therewith shall be allowed. Notwithstanding anything to the contrary contained herein, Grantor shall have the right to make any renovations, alterations and/or changes to the interior of the House and to conduct minor routine landscaping activities on the Premises as defined by Restriction Guidelines without obtaining any consent or approval from the Grantee.

4.1 REVIEW OF GRANTOR'S REQUESTS FOR APPROVAL. Grantor shall submit to the Grantee for the Grantee's approval of activities proposed, relative to the terms set out in Section 4, two copies of information (including plans, specifications, and designs where appropriate) identifying the proposed activity with reasonable specificity. In connection therewith, Grantor shall also submit to the Grantee a timetable for the proposed activity sufficient to permit the Grantee to monitor such activity. Within forty-five (45) days of the Grantee's receipt of any plan of written request for approval hereunder, Grantee shall certify in writing that (a) it approves the plan or request, or (b) it disapproves the plan or request as submitted, in which case the Grantee shall provide Grantor with written suggestions for modification or a written explanation for the Grantee's disapproval. Any failure by the Grantee to act within forty-five (45) days of the receipt of Grantor's submission or resubmission of plans or requests shall be deemed to constitute approval by the Grantee of the plan or request as submitted and to permit Grantee to undertake the proposed activity in accordance with the plan or request submitted, so long as the request sets forth the provisions of this Section relating to

deemed approval after the passage of time provided nothing herein shall be construed to permit Grantor to undertake any activities prohibited hereunder.

4.2 STANDARDS FOR REVIEW. In exercising any authority created by this Preservation Restriction Agreement to inspect the Premises, to review any construction, alteration, repair, or maintenance, or to review casualty damage or to reconstruct or approve reconstruction of the House or additions thereto following casualty damage, the Grantee shall apply the Secretary's Standards.

4.3 ALTERATION, ADDITION, AND MODIFICATION IN THE EVENT OF DAMAGE. In the event of damage to the historic structure, by natural causes or otherwise, such that the historic structure cannot be repaired, the Grantor will notify Grantee within fourteen (14) days of such damage and may perform temporary reconstruction, so as to prevent further damage. Subject to the conditions and requirements of Sections 4, 4.1, 4.2, 4.4 and 4.5 of this Preservation Restriction, Grantor may rebuild on the lot, provided that the new dwelling does not contain more than the same interior floor area as the historic structure, as it exists prior to the work authorized by ZBA Decision No. Z-17-105 and meets one of the following, (i) the new dwelling is placed in the existing footprint; or (ii) the new dwelling is built in conformity with the zoning side, front and rear setbacks in effect at the time of rebuilding.

4.4 CASUALTY DAMAGE OR DESTRUCTION. In the event that the House or any part thereof shall be damaged or destroyed by fire, flood, windstorm, hurricane, earth movement or other casualty, Grantor shall notify Grantee in writing within fourteen (14) days of the damage or destruction, such notification shall include what, if any, emergency work has already been completed. No repairs or reconstruction of any type, other than temporary emergency work to prevent further damage to the House and to protect public safety, shall be undertaken by Grantor without Grantee's prior written approval of the work. Within thirty (30) days of the date of damage or destruction, a report shall be prepared by a qualified restoration architect and an engineer who are acceptable to the Grantor and the Grantee, which report shall include the following: (i) an assessment of the nature and extent of the damage; (ii) a determination of the feasibility of the restoration of the House and/or reconstruction of damaged or

destroyed portions of the House; and (iii) a report of such restoration/reconstruction work necessary to return the House to the condition existing at the date hereof.

4.5 REVIEW AFTER CASUALTY DAMAGE OR DESTRUCTION. If, after reviewing the report provided in Section 4.4 and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims, Grantor and Grantee agree that the Purpose of the Preservation Restriction Agreement will be served by such restoration/reconstruction, Grantor and Grantee shall establish a schedule under which Grantor shall complete the restoration/reconstruction of the House in accordance with plans and specifications consented to by the parties up to at least the total of the casualty insurance proceeds available to Grantor.

If, after reviewing the report provided in Section 4.4 and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims, Grantor and Grantee agree that restoration/reconstruction of the House is impractical or impossible, or agree that the Purpose of the Preservation Restriction would not be served by such restoration/reconstruction, Grantor, may with the prior written consent of the Grantee, demolish, remove or raze the House or construct new improvements on the Premises subject to the requirements of Section 4.1 and 4.2 of this Preservation Restriction Agreement and all in accordance with applicable laws and regulations. If after reviewing the report provided in Section 4.4 and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims, Grantor and Grantee are unable to agree that the purpose of the Preservation Restriction Agreement will or will not be served by such restoration/reconstruction, the matter may be referred by either party to binding arbitration and settled in accordance with the Commonwealth of Massachusetts arbitration statute then in effect.

5. PROHIBITED ACTIVITIES. The following acts or uses are expressly forbidden on, over, or under the Premises, except as otherwise conditioned herein:

- a. after completion of the work permitted under ZBA Decision No. 4051 and subdividing the Parent Parcel into two parcels, the House shall not be demolished, removed or razed except as provided in section 4, 4.1, 4.2 and 4.3, above;
- b. no new structures, including, but not limited to, satellite receiving dishes (small rooftop dishes excluded), camping accommodations or mobile homes, shall

be erected or placed on the Premises hereafter except for temporary structures required for the maintenance or rehabilitation of the Premises, such as construction trailers;

c. the dumping of ashes, trash, rubbish, or any other unsightly or offensive materials is prohibited on the Premises;

d. the Premises shall not be divided or subdivided in law or in fact and the Premises shall not be devised or conveyed except as a unit; and,

e. no above ground utility transmission lines, except those reasonably necessary to serve the House on the Premises, may be created on the Premises, subject to utility easements already recorded.

6. INDEMNIFICATION; TAXES; LIENS.

6.1 INDEMNIFICATION. Grantor hereby agrees to pay, protect, indemnify, hold harmless and defend at its own cost and expense, Grantee, its agent, directors and employees, or independent contractors from and against any and all claims, liabilities, expenses, costs, damages, losses, and expenditures (including reasonable attorney's fees and disbursements hereafter incurred) arising out of or in connection with injury to or death of any person; physical damage to the Premises; the presence or release in, on, or about the Premises, at any time, of any substance now or hereafter defined, listed, or otherwise classified pursuant to any law, ordinance or regulation as a hazardous, toxic, pollution, or contaminating substance; or other injury or other damage occurring on or about the Premises, unless such injury or damage is caused by Grantee or any agent, trustee, employee, or contractor of Grantee. In the event that Grantor is required to indemnify Grantee pursuant to the terms of this section, the amount of such indemnity, until discharged, shall constitute a lien on the Premises with the same effect and priority as a mechanic's lien. Provided, however, that nothing contained herein shall jeopardize the priority of any recorded lien of mortgage or deed of trust given in connection with the promissory note secured by the Premises.

6.2. TAXES. Grantor shall pay immediately, when first due and owing, all general taxes, special taxes, special assessments, water charges, sewer service charges, and other charges which may become a lien on the Premises unless Grantor timely objects to the amount or validity of the assessment or charge and diligently prosecutes an appeal thereof, in which case the obligation to pay such charges shall be suspended for

the period permitted by law for prosecuting such appeal and any applicable grace period following completion of such action. Grantee is hereby authorized but in no event required or expected, to make or advance upon three (3) days prior written notice to Grantor in the place of Grantor, any payment relating to taxes, assessments, water rates, sewer rentals and other governmental or municipality charge, fine, imposition, or lien procured from the appropriate public office without inquiry into the accuracy of such bill, statement or assessment or into the validity of such tax, assessment, sale or forfeiture. Such payment if made by Grantee shall constitute a lien on the Premises with the same effect and priority as a mechanic's lien. Provided, however, that nothing contained herein shall jeopardize the priority of any recorded lien of mortgage or deed of trust given in connection with a promissory note secured by the Premises.

6.3 LIENS. Any lien on the Premises created pursuant to any paragraph of this Restriction may be confirmed by judgment and foreclosed by Grantee in the same manner as a mechanic's lien. Provided, however, that no lien created pursuant to this Restriction shall jeopardize the priority of any recorded lien of mortgage or deed of trust give in connection with a promissory note secured by the Premises.

7. GRANTEE'S REMEDIES. Grantee may, following reasonable written notice to Grantor, institute suit(s) to enjoin any violation of the terms of this Restriction by ex parte, temporary, preliminary, and/or permanent injunction, including prohibitory and/or mandatory injunctive relief, and to require the restoration of the Premises and Buildings to the condition and appearance required under this Restriction. Grantee shall also have available all legal and other equitable remedies to enforce Grantor's obligations hereunder.

In the event Grantor is found to have violated any of its obligations, Grantor shall reimburse Grantee for any costs or expenses incurred in connection with Grantee's enforcement of the terms of this Restriction, including all reasonable Court costs, and attorney's, architectural, engineering, and/or expert witness fees.

Exercise by Grantee of one remedy hereunder shall not have the effect of waiving or limiting any other remedy, and the failure to exercise any remedy shall not have the effect of waiving or limiting the use of any other remedy or the use of such remedy at any other time.

8. NOTICE FROM GOVERNMENT AUTHORITIES. Grantor shall deliver to Grantee copies of any notice of violation or lien relating to the Premises received by Grantor from any government authority within five (5) days of receipt by Grantor. Upon request by Grantee, Grantor shall promptly furnish Grantee with evidence of Grantor's compliance with such notice or lien where compliance is required by law.

9. NOTICE OF PROPOSED SALE. Grantor shall promptly notify Grantee in writing of any proposed sale of the Premises. Grantor shall provide new owners with a copy of this restriction and provide the opportunity for Grantee to explain the terms of the Restriction to potential new owners prior to sale closing.

10. VALIDITY AND SEVERABILITY. The invalidity of M.G.L. Chapter 184 or any part thereof shall not affect the validity and enforceability of this Agreement according to its terms. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement.

11. RECORDING. The Grantor agrees to record this Agreement with the appropriate Registry of Deeds and to file a copy of such recorded instrument with the Grantee.

12. RESTRICTIONS SHALL RUN WITH THE LAND. The burden of these restrictions shall run with the land and shall be binding on all future owners of the interest therein. The right of enforcement shall be as provided for in the Act.

Anything contained herein to the contrary notwithstanding, an owner of the Premises, shall have no obligation pursuant to this instrument where such owner shall cease to have any ownership interest in the Premises by reason of a bona fide transfer. The restrictions, stipulations, and covenants contained herein shall be inserted by Grantor, verbatim or by express reference, in any subsequent deed or other legal instrument by which Grantor divests itself of either the fee simple title to or any lesser estate in the Premises or any part thereof, including by way of example and not limitation, a lease of all or a portion of the Premises.

13. INTERPRETATION. The following provisions shall govern the effectiveness, interpretation, and duration of this Agreement.

a. Any rule of strict construction designed to limit the breadth of restrictions on alienation or use of Premises shall not apply in the construction or interpretation of this Restriction and this instrument shall be interpreted broadly to affect its Purpose and the transfer of rights and the restrictions on use herein contained.

b. This instrument is executed in two counterparts, one of which is to be retained by Grantor and the other, after recording, to be retained by Grantee. In the event of any disparity between the counterparts produced, the counterpart retained by Grantee shall in all cases govern. Except as provided in the preceding sentence, each counterpart shall constitute the agreement of the parties.

c. This instrument is made pursuant to the Act, but the invalidity of such statute or any part thereof shall not affect the validity and enforceability of this Restriction according to its terms, it being the intent of the parties to agree and to bind themselves, their successors and their assigns in perpetuity to each term of this instrument whether this instrument be enforceable by reason of any statute, common law, or private agreement either in existence now or at any time subsequent hereto.

d. Nothing contained herein shall be interpreted to authorize or permit Grantor to violate any ordinance or regulation relating to building materials, construction methods or use. In the event of any conflict between any such ordinance or regulation and the terms hereof Grantor promptly shall notify Grantee of such conflict and shall cooperate with Grantee and the applicable governmental entity to accommodate the purposes of both this Restriction and such ordinance or regulation.

14. RECORDING AND EFFECTIVE DATE. The terms of this Agreement shall not take full force or effect until approved and signed by the Massachusetts Historical Commission, Andover Preservation Commission and the Andover Board of Selectmen and recorded with the proper Registry of Deeds.

15. EXTINGUISHMENT. Grantor and Grantee hereby recognize that an unexpected change in the conditions surrounding the Premises may make impossible the continued use of the Premises for the purpose of this Preservation Restriction Agreement and necessitate extinguishment of the Preservation Restriction Agreement, provided, however, that no such extinguishment shall prevent the Grantor from rebuilding the dwelling in accordance with Section 4 hereof. Such a condition may include, but is not

limited to, partial or total destruction of the House resulting from casualty. Such an extinguishment must meet all the requirements of the Act and the laws of the Commonwealth for extinguishment, including approvals following public hearings by the Town of Andover and by the Massachusetts Historical Commission to determine that such extinguishment is in the public interest.

16. BASELINE DOCUMENTATION. The Grantor shall record a comprehensive set of high resolution photographic documentation images depicting in detail the exterior appearance of the House, said photographic documentation to be filed with and maintained by the Town of Andover and the Andover Preservation Commission in archival quality print and digital electronic format at Town of Andover municipal offices, together with a numbered list of the photographs indicating photographic view and date taken, said photographic documentation to be used in the administration and enforcement of the Purpose and terms of this Preservation Restriction Agreement. Said baseline documentation is incorporated into this Preservation Restriction Agreement by this reference as **Exhibit G**. An additional copy of the revised baseline documentation shall be filed with the Massachusetts Historical Commission.

17. ARCHAEOLOGICAL ACTIVITIES. The conduct of archaeological activities on the Premises, including without limitation survey, excavation, and artifact retrieval, may occur only following the submission of an archaeological field investigation plan prepared by the Grantor and approved in writing by the Grantee and the State Archaeologist of the Massachusetts Historical Commission (M.G.L. c.9, Sec. 27C, 950 C.M.R. 70.00).

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 4th
day of September, 2018.

O'Brien Homes, Inc.
GRANTOR

Kevin O'Brien Pres. & Treasurer
By: Kevin O'Brien
It's President and Treasurer

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

On this 4th day of September, 2018, before me, the undersigned notary public, personally appeared Kevin O'Brien, the President and Treasurer of O'Brien Homes, Inc. and proved to me through satisfactory evidence of identification, which was ☐ photographic identification with signature issued by a federal or state governmental agency, ☐ oath or affirmation of a credible witness, ☒ personal knowledge of the undersigned, to be the persons whose name are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.

Rachel Baime Giaimo
Notary Public: Rachel Baime Giaimo
My Commission Expires: 12/21/23



APPROVAL AND ACCEPTANCE BY THE ANDOVER BOARD OF SELECTMEN

The undersigned hereby certifies that the foregoing preservation restrictions have been approved and accepted pursuant to Massachusetts General Laws, Chapter 184, Section 32, on _____, 2018

ANDOVER BOARD OF SELECTMEN

By _____
Alexander J. Vispoli, Chair

By _____
Laura M. Gregory, Vice Chair

By _____
Christian C. Huntress

By _____
Paul J. Salafia

By _____
Ann W. Gilbert

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

On this _____ day of _____, 2018, before me, the undersigned notary public, personally appeared Alexander J. Vispoli, Chair of the Andover Board of Selectmen, proved to me through satisfactory evidence of identification, which was ☐ photographic identification with signature issued by a federal or state governmental agency, ☐ oath or affirmation of a credible witness, ☐ personal knowledge of the undersigned, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Notary Public:
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

On this _____ day of _____, 2018, before me, the undersigned notary public, personally appeared Laura M. Gregory as Vice Chair of the Andover Board of Selectmen, proved to me through satisfactory evidence of identification, which was ☐ photographic identification with signature issued by a federal or state governmental agency, ☐ oath or affirmation of a credible witness, ☐ personal knowledge of the undersigned, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

Notary Public:
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

On this _____ day of _____, 2018, before me, the undersigned notary public, personally appeared Christian C. Huntress as a Member of the Andover Board of Selectmen, proved to me through satisfactory evidence of identification, , which was ☐ photographic identification with signature issued by a federal or state governmental agency, ☐ oath or affirmation of a credible witness, ☐ personal knowledge of the undersigned, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Notary Public:
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

On this _____ day of _____, 2018, before me, the undersigned notary public, personally appeared Paul J. Salafia as a Member of the Andover Board of Selectmen, proved to me through satisfactory evidence of identification, , which was ☐ photographic identification with signature issued by a federal or state governmental agency, ☐ oath or affirmation of a credible witness, ☐ personal knowledge of the undersigned, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Notary Public:

My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

On this _____ day of _____, 2018, before me, the undersigned notary public, personally appeared Ann W. Gilbert as a Member of the Andover Board of Selectmen, proved to me through satisfactory evidence of identification, , which was ☐ photographic identification with signature issued by a federal or state governmental agency, ☐ oath or affirmation of a credible witness, ☐ personal knowledge of the undersigned, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

Notary Public:

My Commission Expires:

ACCEPTANCE BY THE ANDOVER PRESERVATION COMMISSION

The undersigned hereby certifies that the foregoing preservation restrictions have been approved and accepted pursuant to Massachusetts General Laws, Chapter 184, Section 32.

ANDOVER PRESERVATION
COMMISSION

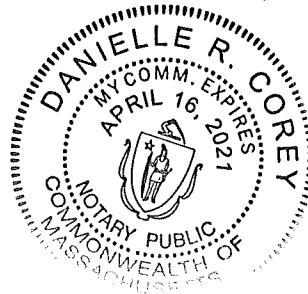
By Karen Herman
Karen Herman, Chair

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

On this 31st day of August, 2018, before me, the undersigned notary public, personally appeared, Karen Herman, Chair of the Andover Preservation Commission proved to me through satisfactory evidence of identification, which was ☒ photographic identification with signature issued by a federal or state governmental agency, ☐ oath or affirmation of a credible witness, ☐ personal knowledge of the undersigned, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

Danielle R. Corey
Notary Public: Danielle R. Corey
My Commission Expires: 4/16/21



APPROVAL BY THE MASSACHUSETTS HISTORICAL COMMISSION

The undersigned hereby certifies that the foregoing preservation restrictions have been approved pursuant to Massachusetts General Laws, Chapter 184, Section 32.

MASSACHUSETTS HISTORICAL
COMMISSION

By _____
Brona Simon
Executive Director and Clerk
Massachusetts Historical Commission

COMMONWEALTH OF MASSACHUSETTS

County: _____

On this _____ day of _____, 2018 before me, the undersigned notary public, personally appeared, Brona Simon, as an Authorized Signatory of the Massachusetts Historical Commission, proved to me through satisfactory evidence of identification, which was ☐ photographic identification with signature issued by a federal or state governmental agency, ☐ oath or affirmation of a credible witness, ☐ personal knowledge of the undersigned, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public:
My Commission Expires:

Exhibit A

Legal Description of Parent Parcel

A certain parcel of land, with the buildings thereon, situated in said Andover at the Southeasterly corner of Lowell Street and Lovejoy Road, being shown as Lot numbered one hundred seventy-one (171) on a plan of land entitled: "Plan of Land in Andover, Mass., as Subdivided by John Philip Enterprises, Inc., dated March 2, 1960" , which plan is recorded with North Essex Registry of Deeds as Plan Number 4164, and said Lot contains 30,220 square feet, more or less, and is substantially bounded and described as follows:

NORTHERLY	by Lowell Street one hundred twenty-eight and 78/100 feet;
WESTERLY	by Lovejoy Road, one hundred eighty and 83/100 feet;
SOUTHERLY	by Lot numbered one hundred seventy-two (172), as shown on said plan, one hundred seventy-five feet; and
EASIERLY	by Lot numbered one hundred seventy (170), as shown on said plan, two hundred forty-five and 57/100 feet.

Being all the same premises conveyed to O'Brien Homes, Inc. by Deed dated January 26, 2015 and recorded with the Essex County (Northern District) Registry of Deeds on January 26, 2015 in Book 14112, Page 167.

Exhibit B

Plan Number 4164

[See attached]

PLAN OF LAND
IN
ANDOVER, MASS.
AS SUBDIVIDED BY
JOHN PHILIP ENTERPRISES, INC.

Scale: 1" = 40'

March 2, 1960

Howard King

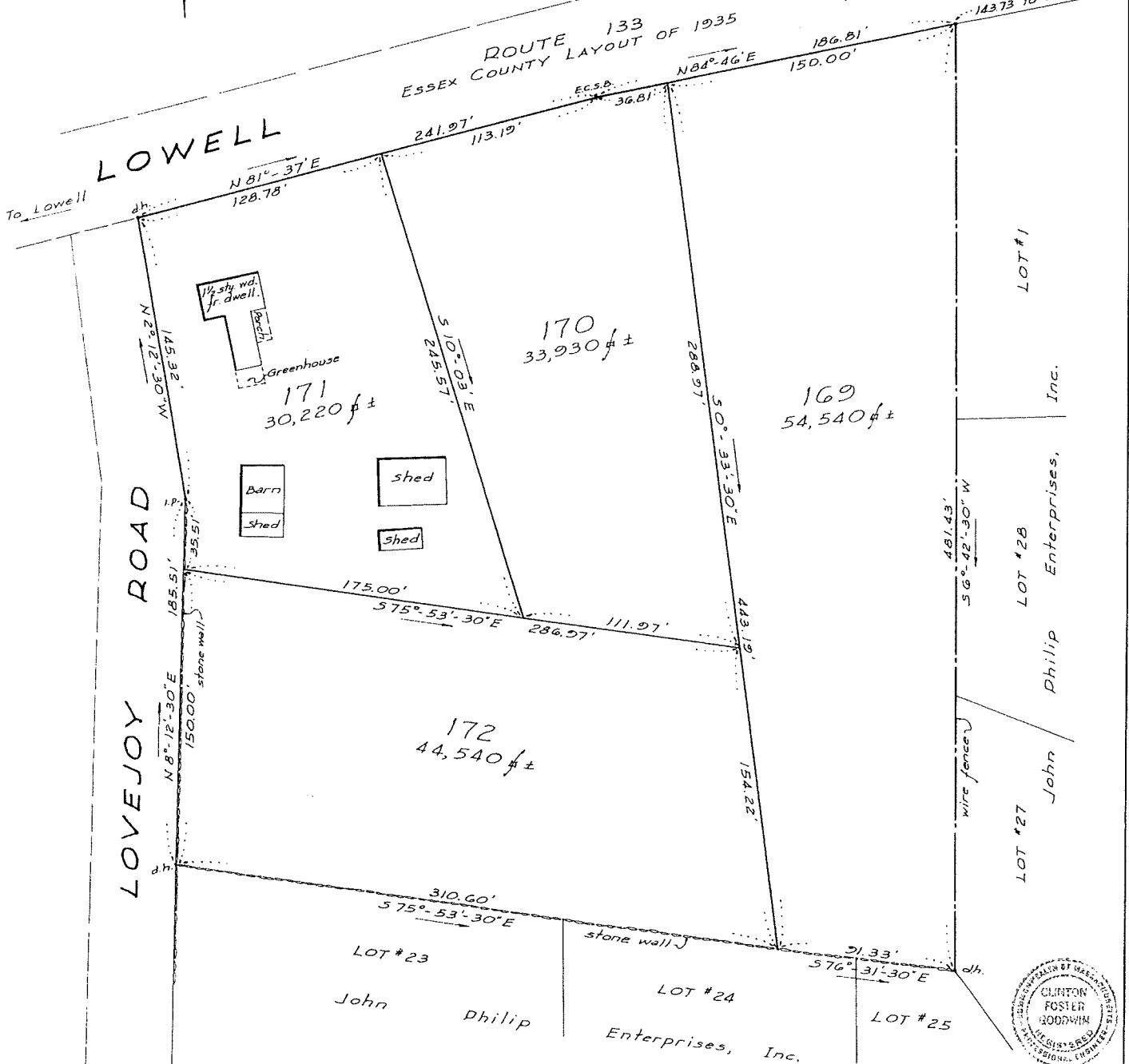
ANDOVER PLANNING BOARD
ANDOVER, MASS.

This plan does not require the approval
of the Planning Board.
Date: *July 13, 1960*

Lawrence Nov. 14, 1960 at 3:15 P.M.
Records: 4 entered in Essex Co. Dist. Reg. of Deeds
See Deeds Rec. B 946, P. 359.
Plan # 4164
Direct: *L. Hudson Driver* Regis.

Walter H. Hammond
John H. Colebrook
James H. Eaton
Howard King

STREET
To Showheen Sq.
143.73' to E.C.S.B.



Clinton F. Goodwin, Reg. Prof. Eng.
25 Washington Sq.
Haverhill, Mass.



Exhibit C
Plot Plan showing Premises

Exhibit D

Andover Historic Building Survey – Inventory Form

[See Attached]

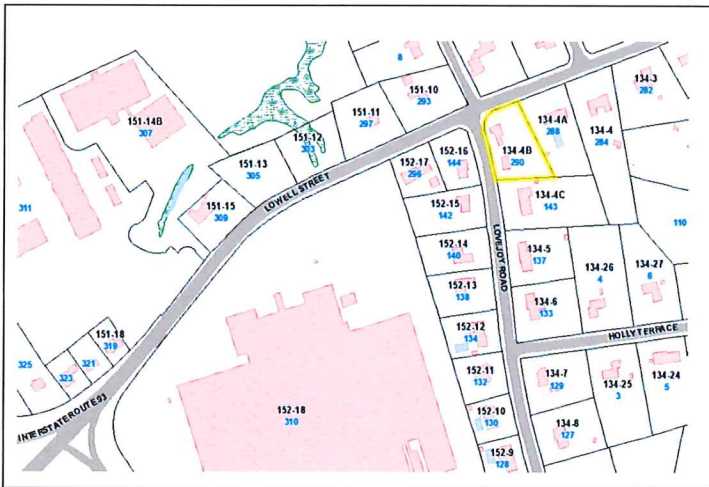
FORM B – BUILDING

MASSACHUSETTS HISTORICAL COMMISSION
MASSACHUSETTS ARCHIVES BUILDING
220 MORRISSEY BOULEVARD
BOSTON, MASSACHUSETTS 02125

Photograph



Locus Map



Recorded by: Stack/Mofford; James Batchelder, Leo Greene, Karen Herman

Organization: Andover Preservation Commission

Date (month / year): 12/19/91, updated 12/20/13, updated 2/7/18

Assessor's Number USGS Quad Area(s) Form Number

134 0 4B

Town/City: Andover

Place: (*neighborhood or village*): West Parish-West Andover

Address: 290 Lowell Street

Historic Name: McLanthan-Barnard-Frye House

Uses: Present: residential

Original: residential

Date of Construction: circa 1840

Source: Andover Building Survey

Style/Form: Greek Revival Cape

Architect/Builder: unknown

Exterior Material:

Foundation: stone and granite

Wall/Trim: clapboards

Roof: asphalt

Outbuildings/Secondary Structures:

Small barn south of house demolished 2014, Garage, 2015.

Major Alterations (*with dates*):

2015 rear addition, 2015 rear ell demolished; chimney stack on main block removed; windows, exterior sheathing and trim replaced, interior gutted and renovated.

Condition: good

Moved: no ☐ yes ☒ **Date:** 1922-23

Acreage: .33 acres

Setting: residential

INVENTORY FORM B CONTINUATION SHEET

TOWN Andover

ADDRESS 290 LOWELL ST.

MASSACHUSETTS HISTORICAL COMMISSION

220 MORRISSEY BOULEVARD, BOSTON, MASSACHUSETTS 02125

Area(s) Form No.

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☐ Recommended for listing in the National Register of Historic Places.

If checked, you must attach a completed National Register Criteria Statement form.

Use as much space as necessary to complete the following entries, allowing text to flow onto additional continuation sheets.

ARCHITECTURAL DESCRIPTION:

Describe architectural features. Evaluate the characteristics of this building in terms of other buildings within the community.

*NOTE: This description includes alterations and additions performed by Kevin O'Brien completed in 2015.

The house at 290 Lowell Street consists of two parallel side-gabled structures linked by a perpendicular connecting ell in a modified "H" form. The gable structures present their eave sides to Lowell Street with the historic cape house portion adjacent to Lowell Street. This historic part of this structure dates to c. 1840 and consists of a one story side-gabled Greek Revival cape form presenting its northern (main) façade to the street.

A note on the 2015 rehabilitation: Unfortunately, at some point in this building's past it was clad in asbestos shingles. As such, a decision was necessitated to replace not only the siding, but all of the exterior trim in kind in 2015. Pine was used to replicate that trim which existed prior, and the entire house was clapboarded in cedar. New construction windows (Harvey Majesty) were also used throughout, requiring custom-made sills, also in pine. Additionally, the old sheathing that had been in contact with the asbestos siding, had to be removed. Throughout the structure the wall and roof sheathing is ½" plywood.

The focal point and main façade of this building is the historic Greek Revival cape structure closest to the street. It is single pile and one story tall. The northern (main) façade presents two wood-clad 6/6 windows (dating from 2015 rehabilitation) on either side of a central door, its symmetry of form a hallmark of the "full house" cape cod form. The central door (replaced during the 2015 rehabilitation) contains four lower panels and four transom lights. There are three sidelights to either side of the door, also replacements for earlier versions of the same and dating from 2015.

The gable ends of this northern portion of the house contain matching fenestration, with two wood-clad 6/6 windows evenly spaced on the ground level floor, and a single 6/6 window at the "attic" level centered within the point of the gable. All of these windows were replaced during the 2015 rehabilitation. There are gable returns on each side, and as in the other elevations, this trim is in pine and an exact replacement for that which existed on the structure before 2015.

The rear (southern) side-gabled structure rises to 1 1/2 stories, but has the same matching fenestration patterns on its gable ends as present on the historic portion of the house (two 6/6 windows on the lower floor and one 6/6 centered on the gable wall on the second floor, all new wood-clad windows from 2015 rehabilitation). There is a shed dormer extending the full length of the southern façade containing three evenly spaced 6 light fixed-pane windows dating from 2015. The southern elevation of this gable structure contains a doorway left of center, with a ground-floor window to either side near the extremity of the wall. Additionally, there is a doorway on the northern side of this structure under the shed-roofed porch on the east side of the connecting ell. Both doors are new wood doors dating to the 2015 rehabilitation. The trim on this part of the house was also replaced in 2015, and is made of pine.

The connecting ell's west wall is flush with the western wall of the rear gable structure and contains two first floor 6/6 wood-clad windows. The ell's east side has a small shed-roofed porch, and two fixed-pane 6 panel windows on the second floor. There is a single turned pine post dating from the 2015 rehabilitation supporting the northeastern corner of the porch roof. All of the windows are wood-clad and date from the 2015 rehabilitation.

The trim on the upper edge of the rake boards, along with that along the eaves and the gable returns represents the most detailed finishing on the exterior. It consists of cyma recta ogees cornice supported by a simple frieze boards. Similar use of an ogee can be found on all exterior window trim. Great care was taken in getting this detail correct when the trim was replaced in 2015.

All three components of the roof of this structure are gray architectural shingles. There are no chimneys in the current structure. Those that previously existed were removed for considerations of the interior plan when the building was remodeled. The foundation is original fieldstone throughout, save a small area at the northeast corner of the rear side-gabled structure that was 'bumped out' during the 2015 rehabilitation. In that area, it is a concrete foundation faced in a fieldstone veneer.

The detached garage is a front-gabled two bay garage of 1 ½ levels and is a new structure dating to the 2015 rehabilitation of the property. It is clapboarded in cedar, and sits on a concrete foundation. The south side has two insulated garage doors with wood veneer. Above the doors and centered in the gable is a 6/6 wood-clad window. There are also eave returns that match those on the historic main block of the house. On the west side of the garage there is a wood entry door on the right-hand side and a 6/6 wood-clad window to the left. The east side has a single 6/6 wood-clad window centered on the wall. There are no openings on the north side of the garage, but there are the same matching trim and gable returns as seen on the south side that match those of the historic house.

Continuation sheet 1

INVENTORY FORM B CONTINUATION SHEET

TOWN Andover ADDRESS 290 LOWELL ST.

MASSACHUSETTS HISTORICAL COMMISSION

220 MORRISSEY BOULEVARD, BOSTON, MASSACHUSETTS 02125

Area(s) Form No.

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HISTORICAL NARRATIVE

Discuss the history of the building. Explain its associations with local (or state) history. Include uses of the building, and the role(s) the owners/occupants played within the community.

The 12 acres of land was owned by John Flint at the time of his death in 1825 and was one of three parcels. The three parcels were sold to Moses Parker, a house joiner on Mar. 23, 1825 from the Flint estate. Parker took a load from Daniel P. King esquire of Danvers for \$700. Two parcels were sold off and King took possession of the remaining 12 acre parcel on May 11, 1839. King then sold for \$360 to Ephraim O. Richardson of Lowell and Thomas Boynton of Dracut in July 1839. The deed restricted ownership until Jan. 1, 1840 as the land had been leased to Nathan Abbot 4th for the season. The property was then sold to George Parks, a Painter, wife Sarah for \$350 on July 2, 1841. Lewis G. P. Adams of Lowell, MA purchased the property with buildings for \$800 on Feb. 6, 1846.

Samuel and Henry L. S. McLanathan purchased the property for \$1000 on Nov. 9, 1847 from Lewis G. P. Adams Henry quit claimed the deed to Samuel in Nov. 1851.

The 1850 Andover Valuation lists Samuel McLanathan at this location. Dwell. House \$375, barn \$50, 12 acres adjoining \$384 = \$809. Farm stock \$20. Samuel was born in Rutland, MA on October 28, 1782. He married Keziah Lealand, born June 15, 1787. Keziah joined West Parish Church by letter on May 3, 1849. Samuel deeds the property to Keziah on Feb. 21, 1852. Samuel died on July 28, 1863 at age 81. Keziah died on September 7, 1872 at age 86. They are interred at West Parish Cemetery in the old section lots #25 and #26. The farm consisted of 12 acres on corner of Lowell St. and Lovejoy Road.

Keziah sold the property to brothers Abraham S. and Horatio Barnard on November 7, 1865 and both co-own the property. Abraham was b. July 22, 1826 and Horatio on Apr. 22, 1829 sons of Herman & Elizabeth (Stickney) Barnard. The 1872 and 1888 maps list Abraham S. Barnard living at this location. Abraham married late in life at age 62 on June 21, 1889 to Melvina (Thorne) Wentworth. Abraham moved to Tewksbury deeds to Horatio Barnard on June 14, 1889, rec. Dec. 11, 1897. Abraham died in Derry, NH on Feb. 16, 1897. Horatio then sells to nephew Edwin L. Barnard on April 29, 1902. Edwin had married Helen C. Pearson. Edwin is first listed as a printer but later a bank cashier. They had six children when living in Andover, moving to Winchester, MA about 1885. Edwin held the home for seven years then sold to Fred E. & Alice Herson in February 1909. Herson owned for three years.

Mary L. Marshman purchased on February 4, 1912 and the house remained with family members until 1933.

In 1933 John Fielding born in England in 1899 and his wife Florence (Schofield) Fielding b. 1895 England, purchased the property. John had immigrated to the US in 1921 and was a textile designer of carpets working and living in Lawrence before coming to Andover. In the 1940 US census Fielding has a daughter Mary b. 1935 and his mother Mary Fielding, age 70 widow, is living with him. Florence died on August 15, 1955 at age 60 and his mother Mary in September 1958. Both are interred at West Parish Cemetery. John Fielding remarried to A. Doris and they sold the home in March 1960 to John Philip Enterprises, Inc. owner, Harry Axelrod. Axelrod had also acquired the former Wild Rose Farm at #262 Lowell St., created the Wild Rose neighborhood development and the Clover Farm development on Lowell St., across the street from IRS, building the Rolling Green Motel. The Fielding property was sub-divided into house lots on Lowell St. and then resold to Stanley A. & Mary C. Bozen on Nov. 14, 1960.

The Bozen family held the property for 55 years, the heirs selling to O'Brien Homes, Inc. on Jan. 26, 2015.

See plan #4164 – 1960 Essex Northern Registry Deeds, Lawrence, MA

When Kevin O'Brien, O'Brien Homes, Inc, purchased this historic home in 2015 it was in very poor condition. Due to its diminutive size and condition it would normally have fallen victim to demolition. Mr. O'Brien intended to rehabilitate the house rather than demolish it. He then applied to the Zoning Board of Appeals for consideration of a Dimensional Special Permit-Historic Preservation in 2014-2015. (Rehabilitation of the property that occurred during 2015 is recounted in the architectural description above.) The purpose of this special permit is to encourage preservation of properties that may otherwise be lost to demolition. A special permit by the Zoning Board of Appeals was granted in 2017 that allowed subdivision of this property at 290 Lowell Street for the purpose of moving an additional circa 1850 historic house of a similar style from 58 Haverhill Street to the site for preservation.

BIBLIOGRAPHY and/or REFERENCES

Owners;

John Flint estate, John Flint Extr. 1825

Moses Parker – Mar. 23, 1825 – b. 238 leaf 277 – 3 parcels \$700

Daniel P. King, Esq. – Nov. 4, 1825 – b. 238 leaf 278 – mtg. deed

Thomas E. Payson – Mar. 16, 1839 – b. 311 leaf 299 – at auction

Continuation sheet 2

INVENTORY FORM B CONTINUATION SHEET

TOWN Andover

ADDRESS 290 LOWELL ST.

MASSACHUSETTS HISTORICAL COMMISSION

220 MORRISSEY BOULEVARD, BOSTON, MASSACHUSETTS 02125

Area(s) Form No.

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Daniel P. King, Esq. – May 11, 1839 – b. 311 leaf 299
Ephraim O. Richardson & Thomas Boynton – July 6, 1839 – b. 314 leaf 136
George Parks, wife Sarah – July 3, 1841 – b. 326 leaf 33 - \$350
George Parks, wife Sarah – Sept. 7, 1843 – b. 339 leaf 41
Lewis G. P. Adams – Feb. 6, 1846 – b. 365 leaf 285 - \$800 w/blds
Samuel McLanathan & Henry L. S. McLanathan – Nov. 9, 1847 – b. 389 leaf 253
Samuel McLanathan – Nov. 6, 1851 – b. 452 leaf 285
Keziah L. McLanathan, wife of Samuel – Feb. 21, 1852 – b. 456 leaf 158
Abraham S. Barnard & Horatio Barnard – Nov. 7, 1865 – b. 693 leaf 23
Horatio Barnard – June 14, 1889, rec. Dec. 11, 1897 – b. 159 p. 493 – 12 acres w/blds
Edwin L. Barnard, wife Helen – Apr. 29, 1902 b. 265 p. 311
Fred E. Herson - Feb. 27, 1909 - b. 270 p. 160
Fred E. & Alice M. Herson - June 18, 1910 - b. 291 p. 92
Mary L. Marshman - Feb. 4, 1912 - b. 314 p. 149
Mary L. Marshman estate, Joseph Marshman - Oct. 12, 1912 - b. 325 p. 486
Sidney F. Marshman - June 30, 1921 - b. 553 p. 350
John & Florence Fielding - Aug. 19, 1933 - b. 571 p. 531 - 12 acres
John Fielding - Aug. 15, 1955 - probate
John & A. Doris Fielding - Mar. 3, 1960 - b. 911 p. 208
John Philip Enterprises, Inc. Harry Axelrod - Mar. 3, 1960 - b. 911 p. 208
Stanley A. & Mary C. Bozen - Nov. 14, 1960 - b. 926 p. 357 30,220 sq. feet
Stanley A. Bozen estate, May 8, 1995 heir Mary C.
Mary C. Bozen estate, June 27, 2013, Mark A. Bozen Adm.
O'Brien Homes, Inc. - Jan. 26, 2015 - b. 14112 p. 167



290 Lowell Street, McLanathan House, circa 1900

INVENTORY FORM B CONTINUATION SHEET

MASSACHUSETTS HISTORICAL COMMISSION
220 MORRISSEY BOULEVARD, BOSTON, MASSACHUSETTS 02125

TOWN Andover

ADDRESS 290 LOWELL ST.

Area(s) Form No.

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290 Lowell Street, Mc Lanthan-Barnard House, 1976

Exhibit E

Decision No. Z-17-105 of the Zoning Board of Appeals, Andover, Massachusetts

[See Attached]



Bk 15351 Pg 333 #130
01-03-2018 @ 10:42a

DECISION OF THE

ZONING BOARD OF APPEALS

ANDOVER, MASSACHUSETTS

(Space above reserved for Registry of Deeds)

(Space below reserved for Town Clerk)

Decision Number: Z-17-105

Date Application Filed: July 7, 2017

Applicant: O'Brien Homes, Inc.
18 Cassimere Street
Andover, MA 01810

Premises Affected: Land & buildings at 290 Lowell Street
Located in Zoning District SRB
Town Assessor's Map 134B, Lot 4
Essex North Registry of Deeds Book 14112, Page 167, Book 5528, Page 357

Owner of Record: O'Brien Homes, Inc.
18 Cassimere Street
Andover, MA 01810

Relief Requested: Special Permit under Article VIII, §7.9 and/or Variance from Article VIII, §7.9.4.2 and/or §4.1.2

Public Notice: Notice published in the Andover Townsman on July 20 and July 27, 2017, and notice sent by mail, postage prepaid, to all interested parties pursuant to the provisions of Massachusetts General Laws.

Public Hearing(s) held: August 3, 2017, continued on November 2, 2017 & December 7, 2017

Decision of the Board: Special Permit under Article VIII, §7.9 GRANTED, and Variance from the requirements of Article VIII, §7.9.4.2 GRANTED

Members participating: Oltman, McDonough, Rechisky, Faulk, Bordonaro

Date of Decision: December 8, 2017

RECEIVED
TOWN CLERK'S OFFICE
DEC - 8 P 1:15
TOWN OF ANDOVER, MASS

290 Lowell Street
Decision No. Z-17-105

I. FACTS PRESENTED AT THE PUBLIC HEARING

A public hearing was held in Conference Room A, 3rd Floor, Town Offices, 36 Bartlet Street, Andover, MA on Thursday, August 3, 2017 on the petition of O'Brien Homes for a Special Permit under Article VIII, §7.9 and/or Variance from Article VIII, §7.9.4.2 and/or §4.1.2 to subdivide the parent parcel into two lots and to maintain the historic house on the parent lot that will lack the minimum required area. Present were: Elizabeth Oltman, Chair; Carol C. McDonough, Clerk; Lisa Rechisky and Daniel Casper, Members; Denise Bordonaro, Brian Corrigan and Kathy Faulk, Associate Members. In the absence of member Neil Magenheimer the Chair designated Associate Member Denise Bordonaro to sit in his place, and designated Associate Members Brian Corrigan and Kathy Faulk to sit as alternates for the case.

Attorney Mark Johnson appeared before the Board on behalf of the Applicant. The Applicant is requesting a Dimensional Special Permit for Historic Preservation pursuant to §7.9 of the Zoning By-law and a variance from the provisions of §7.9.4.2 related to the lot area of the proposed Host Lots.

The Parent Parcel is located at 290 Lowell Street in the SRB district. The Applicant proposes to subdivide the Parent Parcel property into two Host Lots. The existing house on the Parent Parcel, and proposed to be retained on one of the Host Lots, is the McLanthan-Barnard House, built in 1840 and is listed on the Massachusetts Registry of Historic Places and Andover's Historic Building Survey. The Host Lot designated as Lot A on the Plot Plan (dated May 25, 2017) will maintain the existing historic home. The subdivided Host Lot designated as Lot B on the Plot Plan will contain a historic structure to be relocated from 58 Haverhill Street. Pursuant to Zoning By-law Section 7.9.4.8, which allows for the creation of multiple Host Lots from a Parent Parcel, an additional, separate application for a Dimensional Special Permit for Historic Preservation has been submitted under Z-17-104 for the relocation of the historic home at 58 Haverhill Street to Lot B. Lot A is the subject of this application.

The Applicant proposes to maintain the historic McLanthan-Barnard House, currently located at 290 Lowell Street on Host Lot A. The historic house was built around 1840 and is listed on the Massachusetts Registry of Historic Places and Andover's Historic Building Survey. The house was restored in 2015 with approval from the Andover Preservation Commission. The Preservation Commission provided a brief description of the house within their letter to the Board of August 3, 2017.

Mr. Johnson indicated that the Host Lot, proposed Lot A, in general meets the requirements found within §7.9.4.2.b of the Zoning By-law with the exception of lot area. The Parent Parcel contains 29,419 SF of lot area. After the proposed subdivision, Host Lot A will provide 14,839 SF of lot area where 15,000 SF is required. Lot A is proposed to meet all other dimensional requirements for a Dimensional Special Permit within the SRB district: 88 feet of lot frontage along Lowell Street, where 75 feet is required; front yard setback of 39.6 feet, where 35 is required; side yard setback of 16.7 feet, where 15 feet is required; and rear yard setback of 81 feet where 30 feet is required. The Applicant has restored the existing structure in a manner that had the full approval of the Andover Preservation Commission and was granted a preservation award on 2016. The historic structure will be preserved in its existing location. The Applicant will record a historic preservation deed restriction for Host Lot A.

Mr. Johnson indicated that the Parent Parcel was subject to a taking for the layout of Lovejoy Road on October 16, 1962. Prior to the taking, the Parent Parcel contained 30,631 SF, enabling Lot A to have had 15,629 SF when subdivided. Mr. Johnson classifies this taking as a hardship as the justification for zoning relief in the form of a variance from Section 7.9.4.2.b. Mr. Johnson noted that Section 4.1.3.4 of the Zoning By-law provides that "public acquisition of any portion of a lot for the purpose of laying out or altering a public road shall not be construed to render the resulting lot or existing structures upon it to be dimensionally non-conforming or to disqualify the resulting lot for separate sale of for otherwise legal binding, provided that the width of the strip thus acquired does not exceed 10 feet."

290 Lowell Street
Decision No. Z-17-105

William MacLEOD, PE, of Andover Consultants, Inc., appeared for the application. He stated that the taking on the Parent Parcel was a total of 1,214 SF and was acquired by the Town in the 1960's. He stated that the lot was previously over 30,000 SF prior to the taking. The acquired land was less than 10 feet in width, meeting the requirements set forth in Section 4.1.3.4 of the By-law.

Casey Dowgiert, of i3 Architects, appeared for the Applicant. She stated that the Robinson-Cohen-Barrett House to be moved to proposed Host Lot B is an example of Gothic Revival architecture. She stated that subdivision of the existing property containing the McLanthan-Barnard House and moving the dwelling from 58 Haverhill Street would put it into better "context" with the existing historic home at 290 Lowell Street and other historic structures along Lowell Street in the area.

Karen Herman, Chair of the Andover Preservation Commission, stated that the Commission fully supports this proposal. The historically significant McLanthan-Barnard House, built in 1840, is listed on Andover's Historic Building Survey. An important aspect of the Applicant's proposal is the care in which he restored the existing house on 290 Lowell Street. The proposed house to be moved, the Robinson-Cohen-Barrett House, at 58 Haverhill Street is listed as a contributing member of the Shawsheen National Historic Register District. Ms. Herman stated houses of its size and scale are frequently subject to demolition by developers. The Preservation Commission supports the relocation of the dwelling to Lot B due to the size and look of the existing historic house at 290 Lowell Street. The Commission met on February 14, 2017 and unanimously affirmed their support of the Historic Preservation Special Permit in their letter to the Board dated June 12, 2017, with conditions regarding the successful relocation of the house. Ms. Herman noted that preserving a historic home by a historic preservation deed restriction is ideal and it is a compelling reason to grant the special permit.

Due to the late hour at which the application was opened, the Board took comments from the public.

Mr. James Tammaro, 143 Lovejoy Road, immediate abutter to the subject property, spoke against the application. He stated that a previous application to subdivide the Parent Lot and build a new house was denied by the Board in 2014. He stated that the new Host Lot A does not conform to By-Law Section 7.9 and that the Applicant was requesting a "variance from a variance." He stated that the Lovejoy Road area is not a historic district and all houses are on larger lots. Mr. Tammaro submitted letter to the Board dated August 2, 2017, with additional comments.

Mr. Tony Stankowitz, 4 Holly Lane, spoke against the application. He stated that the intersection of Lovejoy Road with Lowell Street is a dangerous intersection with a lot of traffic. He additionally stated that an additional house with a basement would contribute to water ponding problems currently experienced in the area.

Mr. Johnson responded to the residents. He stated that it is likely the house at 58 Haverhill Street will be demolished without the proposed relocation. However, he noted that the Board does not have to consider demolition of the historic structure as stated within the Bylaw Section 7.9.5. He noted that there exists a significant treed buffer between 290 Lowell Street and 143 Lovejoy Road, which will be maintained. An Interdepartmental Review was conducted on 7/18/17 for the subject application and no issues were raised by Town Staff.

Associate Member Faulk questioned whether this application was a repetitive petition under Section 16 of the Massachusetts Zoning Act, as the appeal of the prior decision denying the earlier application (Z-14-106) had only recently been dismissed.

Mr. Johnson stated that Lot A was the subject of a prior decision, but since that time, the Andover Zoning By-law had changed. He stated that this application is substantially different than the prior application. Further, it

290 Lowell Street
Decision No. Z-17-105

has been over two years (the time period outlined in Section 16 of the Massachusetts Zoning Act) since the Board filed their previous decision. Therefore, he represented that the application was not a repetitive petition.

The Board voted unanimously to continue the public hearing to its next meeting on September 7, 2017, to receive additional information from Town Counsel regarding the repetitive petition issue. The Applicant requested two continuances.

The continued public hearing was held in Conference Room A, 3rd Floor, Town Offices, 36 Bartlet Street, Andover, MA on Thursday, November 2, 2017. Again present were: Elizabeth Oltman, Chair; Carol C. McDonough, Clerk; and Lisa Rechisky, Members; and Denise Bordonaro, Associate Member, designated to sit for Neil Magenheim. Associate Member Kathy Faulk was designated to sit for Daniel Casper.

With regard to the repetitive petition concern, Section 16 of the Massachusetts Zoning Act indicates that "No appeal, application, or petition, which has been unfavorably and finally acted upon by the special permit granting or permit granting authority shall be acted favorably upon within two years after the date of final unfavorable action unless said special permit granting authority or permit granting authority finds, by a unanimous vote....specific and material changes in the conditions upon which the previous unfavorable action was based..."

Town Counsel Thomas Urbelis provided the Board with a Massachusetts Continuing Legal Education publication the authors of which suggested that final unfavorable action would be considered to occur when the Superior Court case for the prior application (Z-14-106) was dismissed by a Joint Stipulation of Dismissal on July 7, 2017. However, those authors did not provide any case law to support their suggestion. Attorney Mark Johnson did not provide any appellate case to support his argument that the two year clock started on December 12, 2014 when the decision was filed with the Town Clerk, but he did provide the Land Court case of Gaudet v. Mazzone, 16 LCR 403 (2008) which appears to conclude that the final action was the filing of the decision with the Town Clerk.

Attorney Mark Johnson again appeared for the Applicant. He summarized the applications before the Board. Mr. Johnson confirmed that historic preservation deed restrictions will be recorded for both Lot A and Lot B and two historic homes would be preserved with the approval of the application. Mr. Johnson confirmed that the Applicant would agree to any conditions requested by the Preservation Commission.

A revised plan, prepared by Andover Consultants, Inc., dated October 12, 2017, was received by the Board. Mr. Dennis Griecci, PE, of Andover Consultants, Inc. appeared before the Board. Mr. Griecci stated that the proposed subdivision line had been relocated on the plan. Proposed Host Lot B, the subject of the companion application Z-17-104, no longer requires a variance from By-law Section 7.9.4.2.b. The proposed lot size for Lot A is 14.418 SF and continues to require a variance from By-law Section 7.9.4.2.b. All frontage and setback requirements of By-law Section 7.9.4.3.b continue to be met for Host Lot A.

Mr. Johnson indicated that the justification for the variance is the hardship resulting from the property taking in 1962 along Lovejoy Road and restated provision of By-law Section 4.1.3.4

Kevin O'Brien, the Applicant, supplied the Board with photos of the existing house on 290 Lowell Street, both before and after his restoration of the structure. He stated that his restoration of the house had won a preservation award from the Preservation Commission.

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Casey Dowgiert, of i3 Architects, appeared before the Board to define the portions of the house and barn structures that are to be relocated to proposed Host Lot B. She stated that the two proposed garage locations provide sufficient buffer area between Host Lot A and Host Lot B.

Mr. Johnson then noted that the intent of the Dimensional Special Permit for Historic Preservation By-law is a tool by which to preserve houses deemed to be worth saving by the Andover Preservation Commission. The historic preservation deed restriction is critical for both lots in this location. Mr. Johnson noted that a historic dwelling should not have to be derelict to receive consideration for a Dimensional Special Permit for Historic Preservation.

No one else appeared before the Board to speak either for or against the petition. The Board voted unanimously to waive a viewing of the premises and to close the public hearing. The Board then proceeded to deliberate the matter. In deliberation, the sense of the Board was to approve the requested special permit with appropriate findings and conditions. The Board voted unanimously to continue its deliberation to its regular meeting to be held on December 7, 2017 for the purpose of reviewing and voting on the final decision, findings and conditions.

In addition to the written application, the following documents and materials were received by the Board and considered at the public hearing:

- "Plan of Land in Andover, Mass., prepared for O'Brien Homes, Inc.," prepared by Andover Consultants, Inc. and dated May 25, 2017
- "Plan of Land in Andover, Mass., prepared for O'Brien Homes, Inc.," prepared by Andover Consultants, Inc. and dated October 12, 2017
- Letter from Karen Herman, Chair of the Andover Preservation Commission, to the Zoning Board of Appeals, dated June 12, 2017.
- Memorandum from Karen Herman, Chair of the Andover Preservation Commission, to the Zoning Board of Appeals dated August 7, 2017
- Memorandum from Karen Herman, Chair of the Andover Preservation Commission, to the Zoning Board of Appeals dated September 7, 2017
- Decision of Board of Appeals Z-14-106, dated December 12, 2014
- Form B Massachusetts Archives Building Form for 290 Lowell Street, taken from the Massachusetts Historical Commission website
- Quitclaim Deed for transfer of 290 Lowell Street to O'Brien Homes, Inc., dated January 26, 2015 and recorded at E.N.R.D. Book 14112, Page 167
- Notice of acquisition of property by the Town of Andover, dated October 16, 1962
- Draft of proposed Preservation Restriction Agreement
- Letter from Thomas J. Urbelis, Town Counsel, to the Zoning Board of Appeals, dated July 7, 2017
- Letter from Thomas J. Urbelis, Town Counsel, to the Zoning Board of Appeals, dated August 28, 2017
- Letter from Mark Johnson, Johnson & Borenstein, LLC, to the Zoning Board of Appeals, dated October 5, 2017
- Letter from Mark Johnson, Johnson & Borenstein, LLC, to the Zoning Board of Appeals, dated October 27, 2017

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- Letter from James Tammaro & Lisa Tammaro, 143 Lovejoy Road, to the Zoning Board of Appeals, dated August 2, 2017
- Addendum to Letter submitted by James & Lisa Tammaro, 143 Lovejoy Road, to the Zoning Board of Appeals, dated August 3, 2017
- Folio entitled '290 Lowell Street; House Pre-Renovations' submitted by Mark Johnson, received October 27, 2017, undated
- Folio entitled '290 Lowell Street; Existing House & Barn Prior to Renovations' submitted by Mark Johnson, received October 27, 2017, undated
- Renderings of moved/renovated house prepared by i3 Architects received from Mark Johnson on August 3, 2017, undated
- 'Area of Taking' partial plan submitted by W. MacLeod on August 3, 2017, undated
- Addendum to Petition of O'Brien Homes, Inc. submitted with application, undated
- Flash drive of Power Point presentation, received from Mark Johnson on 11/2/17

The Board deliberated and voted to approve the following findings and decision at a public meeting held in Conference Room A, 3rd Floor, Town Offices, 36 Bartlet Street, Andover, MA on Thursday, December 7, 2017 Present and voting were: Elizabeth Oltman, Chair; Carol C. McDonough, Clerk; Lisa Rechisky, Member; and Denise Bordonaro and Kathy Faulk, Associate Members sitting in place of Neil Magenheimer and Daniel Casper.

II. FINDINGS AND DECISION OF THE BOARD

The Board reviewed the information provided by Town Counsel and Mr. Johnson and found that the differences between the current application and the prior application were substantial. Further, the Board found that the revision to the By-law adopted by the Town changes the conditions upon which the previous unfavorable action was based. Therefore, the Board finds that the application is not a repetitive petition.

The purpose of By-law Section 7.9 is to encourage the preservation of buildings, structures, sites and settings of historic significance, by allowing such buildings or features to remain in place, or be moved to another location rather than be demolished or otherwise compromised.

The structure currently located at 290 Lowell Street meets the definition of a historic structure by virtue of it being listed per §7.9.2.1 on the Massachusetts Registry of Historic Places and Andover's Historic Building Survey, as certified by the Andover Preservation Commission.

Section 7.9.4 of the By-law sets forth specific standards and regulations that shall be applied to a Dimensional Special Permit for Historic Preservation. The Board has reviewed the Application and finds as follows:

1. The lot is located in the SRB district. (§7.9.4.1)
2. The Host Lot (Lot A), containing 14,418 SF of land will not meet the current requirements of §7.9.4.2.b having less than 15,000 square feet of contiguous upland and will require a variance from this Section of the By-Law.
3. The Host Lot (Lot A) meets all other dimensional requirements for a Dimensional Special Permit within the SRB district: 88 feet of lot frontage, where 75 feet is required; front yard setback of 39.6 feet, where 35 is required; side yard setback of 16.7 feet, where 15 feet is required; and rear yard setback of 81 feet where 30 feet is required. (§7.9.4.3.b)
4. The Host Lot (Lot A) has its required frontage on a public way (§7.9.4.4)
5. The Host Lot (Lot A) is to be served by municipal sanitary sewer and water. (§7.9.4.5)
6. The Host Lot (Lot A) is not located in the SRC Zoning District, so §7.9.4.6 does not apply.

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7. No New Lot is to be created, so §7.9.4.7 does not apply.
8. The Parent Parcel is to be divided to create more than one Host Lot and a separate, related application for a Dimensional Special Permit for Historic Preservation has been filed for Host Lot B (Z-17-104). (§7.9.4.8)
9. The Host Lot is not a vacant existing non-conforming lot, so §7.9.4.9 does not apply
10. The Board has determined that a historic structure can be placed on Host Lot B, with appropriate conditions, without detrimental effect on abutting properties or the street on which the lot has frontage. (§7.9.4.10)

Section 7.9.5 of the By-law sets forth specific findings that shall be applied to a Dimensional Special Permit for Historic Preservation. The Board finds that keeping the existing structure at 290 Lowell Street and relocating the historic structure from 58 Haverhill Street are a priority in this application, as this portion of Lowell Street represents a valid historic setting and context for both structures. The Board finds as follows:

1. The modification of dimensional requirements is necessary to protect and maintain a historic structure. The existing structure at 290 Lowell Street is a significant historic structure as certified by the Andover Preservation Commission. Providing a historic preservation deed restriction is beneficial in preserving the historic structure.
2. The proposed work on the existing historic structure being relocated from 58 Lowell Street is necessary to maintain the historical and architectural features of the structure and will be under the authority of the Andover Preservation Commission.
3. It is unlikely that the historic structure will be destroyed in the absence of a Dimensional Special Permit for Historic Preservation.
4. An interdepartmental review team meeting was held on 7/18/17 on this Application.
5. The Andover Preservation Commission supports this Application in its Letter of June 12, 2017 and memorandum of August 3, 2017.

Based on the forgoing arguments and findings, and the evidence presented at the public hearing, the Board concludes that the application for a dimensional special permit for historic preservation meets the standards and regulations set forth in the Zoning By-law, and therefore the project is eligible for a Dimensional Special Permit for Historic Preservation. The Board finds that providing a historic preservation deed restriction is beneficial in preserving the existing historic structure. Finally, the Board finds that the overall proposal, under §9.4.2 will not be unreasonably detrimental to the established or future character of the neighborhood and Town and that such is in harmony with the general purpose and intent of the By-law.

The Board votes unanimously (5-0) to grant the Special Permit for Historic Preservation under Article VIII, §7.9, subject to the following conditions:

1. The subdivision of the land shall be done in conformity with the Plan of Land submitted with the application entitled "Plan of Land in Andover, Mass. Prepared for O'Brien Homes, Inc.," dated October 12, 2017, as prepared by Andover Consultants, Inc.
2. Following the move of the historic structure from 58 Haverhill Street to its new location on Host Lot B at 290 Lowell Street, the Inspector of Buildings shall certify in writing to the Office of the Zoning Board of Appeals that the structure has been successfully moved in accordance with this Decision and placed on its new foundation, with all temporary supporting structures, including cribbing and beams used in transit, removed so that the

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- building is supported only by its new permanent foundation. No building permits for any additional work shall be issued until such certification has been made.
3. The rights granted by this Special Permit shall be deemed to be exercised only upon the successful relocation of the Robinson-Cohen-Barrett House to 290 Lowell Street in accordance with this Decision and its placement on its new permanent foundation, with all temporary supporting structures removed, and issuance of the certification by the Inspector of Buildings, all as described in Condition #2.
 4. If the Robinson-Cohen-Barrett House is not successfully relocated to Host Lot B at 290 Lowell Street as described Condition #2, this Special Permit shall be null and void and Host Lot B at 290 Lowell Street shall not be considered a buildable lot under the Zoning By-law. In the event that the Robinson-Cohen-Barrett House is destroyed or damaged beyond repair prior to being moved to its new location, this condition shall apply and the Special Permit shall be null and void.
 5. In the event of a catastrophic event which results in damage to the existing historic structure on Host Lot A at 290 Lowell Street such that the historic structure cannot be repaired, the owner may rebuild on the Host Lot, provided that the new structure does not contain more than the same interior floor area as the historic structure and meets one of the following requirements:
 - a. The new structure is placed in the same footprint as that occupied by the historic structure; or
 - b. The new structure is built in conformity with the zoning side, front and rear setbacks in effect at the time of rebuilding as set forth in Section 4.1.2 of the Zoning By-law.
 6. After the dimensional special permit for historic preservation has become final, any proposed alterations or changes to the historic structure shall be submitted to the Andover Preservation Commission for its review and approval. If the Preservation Commission determines that the proposed alteration or changes are not minor, the owner shall seek a modification of the special permit from the Board of Appeals.
 7. When the decision of the Board of Appeals on the application for a dimensional special permit for historic preservation has become final and has been recorded at the Registry of Deeds, the plan upon which the decision is based shall be submitted to the Andover Planning Board for certification as an Approval Not Required (ANR) plan pursuant to Chapter 41, Section 81P of the Massachusetts General Laws.
 8. The Approval Not Required (ANR) plan as certified by the Planning Board shall be recorded at the Essex North District Registry of Deeds.
 9. No building permit shall be issued until the ANR plan has been recorded at the Essex North District Registry of Deeds.
 10. Within thirty (30) days following the effective date of this decision, the applicant and/or his legal representative shall contact the Massachusetts Historical Commission to begin the application process for the preservation restriction as required by Condition #11 below.
 11. The owner shall record at the Essex North District Registry of Deeds an historic preservation restriction in the form approved by the Zoning Board of Appeals, and approved and endorsed by the Andover Board of Selectmen and by the Massachusetts Historical Commission in accordance with Chapter 184, Section 32, of the General Laws, which shall at a minimum provide for conditions under which alterations, additions or modifications may be made, and in the event of damage to the historic structure on Host Lot A such that the historic structure cannot be repaired, the owner may rebuild on the lot, provided that the new dwelling does not contain more than the same interior floor area as the historic structure and meets one of the

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following requirements: (i) the new dwelling is placed in the existing footprint; or (ii) the new dwelling is built in conformity with the zoning side, front and rear setbacks in effect at the time of rebuilding. Any mortgagee shall subordinate its mortgage to this restriction.

With respect to Variances, Section 9.2.2.2 of the Andover Zoning By-law grants the Board of Appeals the power: "To hear and decide appeals or petitions for variances from the terms of this by-law, including variances for uses, with respect to particular land or structures, owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, where a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and where desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law, all as set forth in G.L. c. 40A, s. 10."

The Board finds that the size of the Parent Parcel was reduced from a conforming lot size due to the taking of land by the Town of Andover in 1962, creating a lot size of less than the 30,000 SF required in the SRB district. This condition does not generally affect this district in the vicinity of the subject property. Due to these conditions, the Board finds that a literal enforcement of the Zoning By-law will result in a substantial hardship to the Applicant.

The subject application preserves two historic dwellings within the Town of Andover in an appropriate context. The Board therefore finds that relief may be granted without substantial detriment to the public good and without substantially derogating from the intent and purpose of the Zoning By-law.

Accordingly, the Board votes unanimously (5-0) to grant a Variance from the requirements of Article VIII, §7.9.4.2 to allow the preservation of the existing historic home and create a new Host Lot to relocate and preserve a second historic home, subject to the conditions listed above.

Members voting FOR the decision: Oltman, McDonough, Rechisky, Bordonaro, Faulk
Members voting AGAINST the decision: None



Elizabeth M. Oltman, Chair

EMO/bb

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CERTIFICATION

I, Lawrence J. Murphy, Town Clerk of the Town of Andover, Massachusetts do hereby certify that twenty days have elapsed since the above referenced decision of the Board of Appeals, which was filed in the office of the Town Clerk on December 8, 2017, and that no appeal has been filed with the Town Clerk.



Lawrence J. Murphy
Town Clerk
Andover, Massachusetts

Exhibit F

RESTRICTION GUIDELINES

In an effort to explain what constitutes a minor alteration and what constitutes a major change, which must be reviewed by the Andover Preservation Commission (APC) the following list has been developed. By no means is this list comprehensive: it is only a sampling of some of the more common alterations, which may be contemplated by building owners.

PAINT

Minor - Exterior hand scraping and repainting of non-decorative and non-significant surfaces as part of periodic maintenance.

Major - Painting or fully stripping decorative surfaces or distinctive stylistic features including ornamental woodwork.

WINDOWS AND DOORS

Minor - Regular maintenance including caulking, painting and necessary re-glazing. Repair or in-kind replacement of existing individual decayed window parts.

Major - Wholesale replacement of units; change in fenestration or materials; alteration of profile or setback of windows. The addition of storm windows is also considered a major change; however, with notification it is commonly acceptable.

EXTERIOR

Minor - Spot repair of existing cladding and roofing including in-kind replacement of clapboards, shingles, slates, etc.

Major - Large-scale repair or replacement of cladding or roofing. Change involving inappropriate removal or addition of materials or building elements (i.e. removal of chimneys or cornice detailing; installation of architectural detail which does not have a historical basis); altering or demolishing building additions; spot repointing of masonry. Structural stabilization of the Premises is also considered a major alteration.

LANDSCAPE/OUTBUILDINGS

Minor - Routine maintenance of outbuildings and landscape including lawn mowing, pruning, planting, painting, and repair.

Major - Moving or subdividing buildings or Premises; altering of Premises; altering or removing significant landscape features such as gardens, vistas, walks, plantings; ground disturbance affecting archaeological resources.

WALLS/PARTITIONS

Minor - Making fully reversible changes (i.e. sealing off doors in situ, leaving doors and door openings fully exposed) to the spatial arrangement of a non-significant portion of the building.

Major - Creating new openings in walls or permanently sealing off existing openings; adding permanent partitions which obscure significant original room arrangement;

demolishing existing walls; removing or altering stylistic features; altering primary staircases.

HEATING/AIR CONDITIONING/ELECTRICAL/PLUMBING SYSTEMS

Minor - Repair of existing systems.

Major - Installing or upgrading systems which will result in major appearance changes (i.e. disfigured walls or floors, exposed wiring, ducts, and piping); the removal of substantial quantities of original materials in the course of construction.

Changes classified as major alterations are not necessarily unacceptable. Under the preservation restriction such changes must be reviewed by the APC and their impact on the historic integrity of the premise assessed.

It is the responsibility of the Premises owner to notify the APC in writing when any major alterations are contemplated. Substantial alterations may necessitate review of plans and specifications.

The intent of the preservation restriction is to enable the APC to review proposed alterations and assess their impact on the integrity of the structure, not to preclude future change. APC will attempt to work with Premises owners to develop mutually satisfactory solutions, which are in the best interests of the Premises.

Exhibit G

Baseline Documentation



Photo 1, North and East Front Elevation, June, 2014



Photo 2, North and West Front Elevation, June 2014



Photo 3, South and East Elevation, June 2014



Photo 4, South and West Elevation, June 2014



Photo 5, East Elevation, June, 2014



Photo 6, North and West Elevation, January 2016



Photo 7, West Elevation, January 2016



Photo 8, South and West Elevation, January 2016



Photo 9, East and North Elevation, January 2016



Photo 10, East Elevation, January 2016

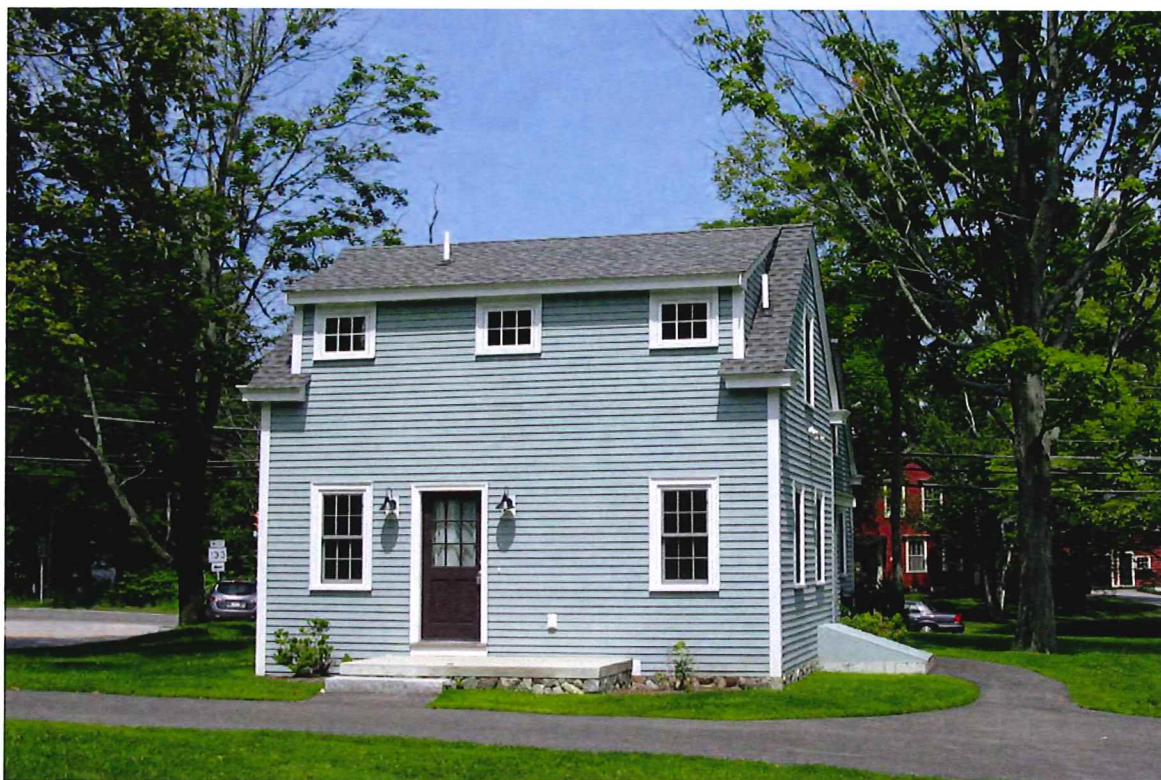


Photo 11, South Elevation, July 2018

CERTIFICATE OF CONVEYANCE

I, hereby certify that on this ____ day of _____, 2018, this Preservation Restriction Agreement of the Premises, located at 290 Lowell Street, in Andover, Massachusetts was conveyed to the Town of Andover by and through the Andover Preservation Commission free and clear of all liens and encumbrances and that except for the following items, there are no other holders of any interest in the land:

Mark B Johnson
(Attorney for Grantor)

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

On this _____ day of _____, 2018, before me, the undersigned notary public, personally appeared, Mark B. Johnson attorney for grantor, proved to me through satisfactory evidence of identification, which was ☐ photographic identification with signature issued by a federal or state governmental agency, ☐ oath or affirmation of a credible witness, ☐ personal knowledge of the undersigned, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Notary Public:
My Commission Expires:

(Space Above this Line Reserved for Registry of Deeds)

PRESERVATION RESTRICTION AGREEMENT

The parties to this Agreement are the Town of Andover, by and through the Andover Preservation Commission located at 36 Bartlett Street, Andover, Massachusetts, hereinafter referred to as the Grantee, and O'Brien Homes, Inc. having a place of business at 18 Cassimere St, Andover, MA, hereinafter referred to as the Grantor.

WHEREAS, the Grantor is the owner in fee simple of certain real property with improvements thereon known as the McLanthan-Barnard-Frye House located at 290 Lowell Street in Andover, Massachusetts, hereinafter referred to as the "Parent Parcel", which is described in Grantor's Deed recorded at the Northern Essex County Registry of Deeds in Book 14112, page 167, and in **Exhibit A**, attached hereto and incorporated herein by reference. The Parent Parcel is further described as lot 171 on a plan entitled "Plan of Land in Andover, Mass. as Subdivided by John Philip Enterprise, Inc.", dated March 2, 1960, prepared by Clinton F. Goodwin, Registered Professional Engineer, and recorded at the Northern Essex Registry of Deeds as Plan Number 4164. A copy of said plan is attached hereto and incorporated herein by reference as **Exhibit B**. The portion of the Parent Parcel containing the McLanthan-Barnard-Frye House, said portion hereinafter referred to as the "Premises", is depicted as Lot A on a plan entitled "Plan of Land in Andover, Mass. Prepared for O'Brien Homes, Inc.", dated October 12, 2017, prepared by Andover Consultants, Inc., and recorded with the Northern Essex Registry of Deeds as Plan Number _____. A copy of said plan is attached hereto and incorporated herein by reference as **Exhibit C**.

WHEREAS, the Grantor wishes to impose certain restrictions, obligations and duties upon it as the owner of the Premises and on the successors to its right, title and interest therein, with respect to maintenance, protection, and preservation of the existing McLanthan-Barnard-Frye House (the "House") located on the Premises in order to protect the architectural, archaeological and historical integrity thereof;

WHEREAS, the Grantee is a government body organized under the laws of the Commonwealth of Massachusetts and is authorized to accept these preservation restrictions under the Act;

WHEREAS, this Preservation Restriction is in accordance with the Andover Zoning Board of Appeals ("ZBA") Decision No. Z-17-105, dated December 8, 2017;

WHEREAS, said House is an architecturally and historically significant structure meriting the protections of a perpetual Preservation Restriction Agreement under M.G.L. Chapter 184, §§ 31-33; and

WHEREAS, the preservation of the Premises with the House is important to the public for the enjoyment and appreciation of its architectural, archaeological and historical heritage and will serve the public interest in a manner consistent with the purposes of M.G.L. Chapter 184, §§ 31, 32 and 33, hereinafter referred to as the Act.

NOW, THEREFORE, for good and valuable consideration, the Grantor conveys to the Grantee the following preservation restrictions which shall apply in perpetuity to the Premises. These preservation restrictions are set forth so as to ensure the preservation of those characteristics which contribute to the architectural, archaeological and historical integrity of the Premises which have been listed on the Andover Historic Building Survey (a copy of the inventory form is attached hereto as **Exhibit D**).

Characteristics which contribute to the architectural, archaeological and historical integrity of the House include, but are not limited to, the artifacts, features, materials, appearance, and workmanship of the House, including those characteristics which originally qualified the House for listing in the Andover Historic Building Survey. The terms of the Preservation Restriction are as follows:

1. MAINTENANCE OF PREMISES. After the completion of the work authorized by the ZBA pursuant to Decision No. Z-17-105 (recorded with the Registry of Deed in Book 15351, Page 333, and which is attached to this Agreement as **Exhibit E**

and is hereby incorporated by reference), including subdividing the Parent Parcel into two parcels, one of which (Lot A the Premises) will contain the House, in substantial conformity with the Plot Plan prepared by Andover Consultants, Inc., dated October 12, 2017, on file with the ZBA (referred to herein as the "Plan"); the Grantor and its successors and assigns shall be responsible for the continued maintenance, repair and administration of the exterior of the House and Premises so as to preserve the characteristics which contribute to the architectural, archaeological and historical integrity of the House and Premises in a manner satisfactory to the Grantee according to the Secretary of the Interior's "*Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings*" (36 C.F.R. 67 and 68), as these may be amended from time to time (hereinafter "the *Secretary's Standards*"). The Grantor may seek financial assistance from any source available to it. The Grantee does not assume any obligation for maintaining, repairing or administering the Premises.

2. INSPECTIONS. The Grantor agrees that the Grantee may inspect the Premises from time to time upon reasonable notice to determine whether the Grantor is in compliance with the terms of this Agreement.

3. INSURANCE. Grantor shall keep the Premises insured by an insurance company rated "A" or better by Best's for the full replacement value against loss from perils commonly insured under standard fire and extended coverage policies and comprehensive general liability insurance against claims for personal injury, death and property damage. The Grantor shall deliver to the Grantee, within ten (10) business days of the Grantee's written request thereof, certificates of such insurance coverage. Provided, however, that whenever the Premises are encumbered with a mortgage or deed of trust, nothing contained in this paragraph shall jeopardize the prior claim, if any, of the mortgagee/lender to the insurance proceeds.

4. ALTERATIONS. The Grantor agrees that no exterior alterations, changes or additions shall be made to the House and Premises beyond those shown on the Plan, unless such alterations, changes or addition (a) is approved as a minor modification by the Andover Preservation Commission; (b) is authorized by the Andover ZBA Decision No. Z-17-105; (c) is clearly of minor nature and not affecting the characteristics which

contribute to the architectural, archaeological or historical integrity of the House, or (d) the Grantee has previously determined that it will not impair such characteristics after reviewing plans and specifications submitted by the Grantor, (in its review the Grantee will apply the *Secretary's Standards* to all proposed work), or (e) required by casualty or other emergency promptly reported to the Grantee. Ordinary maintenance and repair of the House may be made without the written permission of the Grantee. For purposes of this section, interpretation of what constitutes alterations of a minor nature and ordinary maintenance and repair shall be governed by the terms of the Restriction Guidelines relating to exterior of the structure, which are attached to this Agreement as **Exhibit F** and hereby incorporated by reference, provided, however that all work authorized by the ZBA pursuant to Decision No. Z-17-105 and the Plan approved by the ZBA in connection therewith shall be allowed. Notwithstanding anything to the contrary contained herein, Grantor shall have the right to make any renovations, alterations and/or changes to the interior of the House and to conduct minor routine landscaping activities on the Premises as defined by Restriction Guidelines without obtaining any consent or approval from the Grantee.

4.1 REVIEW OF GRANTOR'S REQUESTS FOR APPROVAL. Grantor shall submit to the Grantee for the Grantee's approval of activities proposed, relative to the terms set out in Section 4, two copies of information (including plans, specifications, and designs where appropriate) identifying the proposed activity with reasonable specificity. In connection therewith, Grantor shall also submit to the Grantee a timetable for the proposed activity sufficient to permit the Grantee to monitor such activity. Within forty-five (45) days of the Grantee's receipt of any plan of written request for approval hereunder, Grantee shall certify in writing that (a) it approves the plan or request, or (b) it disapproves the plan or request as submitted, in which case the Grantee shall provide Grantor with written suggestions for modification or a written explanation for the Grantee's disapproval. Any failure by the Grantee to act within forty-five (45) days of the receipt of Grantor's submission or resubmission of plans or requests shall be deemed to constitute approval by the Grantee of the plan or request as submitted and to permit Grantee to undertake the proposed activity in accordance with the plan or request submitted, so long as the request sets forth the provisions of this Section relating to

deemed approval after the passage of time provided nothing herein shall be construed to permit Grantor to undertake any activities prohibited hereunder.

4.2 STANDARDS FOR REVIEW. In exercising any authority created by this Preservation Restriction Agreement to inspect the Premises, to review any construction, alteration, repair, or maintenance, or to review casualty damage or to reconstruct or approve reconstruction of the House or additions thereto following casualty damage, the Grantee shall apply the Secretary's Standards.

4.3 ALTERATION, ADDITION, AND MODIFICATION IN THE EVENT OF DAMAGE. In the event of damage to the historic structure, by natural causes or otherwise, such that the historic structure cannot be repaired, the Grantor will notify Grantee within fourteen (14) days of such damage and may perform temporary reconstruction, so as to prevent further damage. Subject to the conditions and requirements of Sections 4, 4.1, 4.2, 4.4 and 4.5 of this Preservation Restriction, Grantor may rebuild on the lot, provided that the new dwelling does not contain more than the same interior floor area as the historic structure, as it exists prior to the work authorized by ZBA Decision No. Z-17-105 and meets one of the following, (i) the new dwelling is placed in the existing footprint; or (ii) the new dwelling is built in conformity with the zoning side, front and rear setbacks in effect at the time of rebuilding.

4.4 CASUALTY DAMAGE OR DESTRUCTION. In the event that the House or any part thereof shall be damaged or destroyed by fire, flood, windstorm, hurricane, earth movement or other casualty, Grantor shall notify Grantee in writing within fourteen (14) days of the damage or destruction, such notification shall include what, if any, emergency work has already been completed. No repairs or reconstruction of any type, other than temporary emergency work to prevent further damage to the House and to protect public safety, shall be undertaken by Grantor without Grantee's prior written approval of the work. Within thirty (30) days of the date of damage or destruction, a report shall be prepared by a qualified restoration architect and an engineer who are acceptable to the Grantor and the Grantee, which report shall include the following: (i) an assessment of the nature and extent of the damage; (ii) a determination of the feasibility of the restoration of the House and/or reconstruction of damaged or

destroyed portions of the House; and (iii) a report of such restoration/reconstruction work necessary to return the House to the condition existing at the date hereof.

4.5 REVIEW AFTER CASUALTY DAMAGE OR DESTRUCTION. If, after reviewing the report provided in Section 4.4 and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims, Grantor and Grantee agree that the Purpose of the Preservation Restriction Agreement will be served by such restoration/reconstruction, Grantor and Grantee shall establish a schedule under which Grantor shall complete the restoration/reconstruction of the House in accordance with plans and specifications consented to by the parties up to at least the total of the casualty insurance proceeds available to Grantor.

If, after reviewing the report provided in Section 4.4 and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims, Grantor and Grantee agree that restoration/reconstruction of the House is impractical or impossible, or agree that the Purpose of the Preservation Restriction would not be served by such restoration/reconstruction, Grantor, may with the prior written consent of the Grantee, demolish, remove or raze the House or construct new improvements on the Premises subject to the requirements of Section 4.1 and 4.2 of this Preservation Restriction Agreement and all in accordance with applicable laws and regulations. If after reviewing the report provided in Section 4.4 and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims, Grantor and Grantee are unable to agree that the purpose of the Preservation Restriction Agreement will or will not be served by such restoration/reconstruction, the matter may be referred by either party to binding arbitration and settled in accordance with the Commonwealth of Massachusetts arbitration statute then in effect.

5. PROHIBITED ACTIVITIES. The following acts or uses are expressly forbidden on, over, or under the Premises, except as otherwise conditioned herein:

- a. after completion of the work permitted under ZBA Decision No. 4051 and subdividing the Parent Parcel into two parcels, the House shall not be demolished, removed or razed except as provided in section 4, 4.1, 4.2 and 4.3, above;
- b. no new structures, including, but not limited to, satellite receiving dishes (small rooftop dishes excluded), camping accommodations or mobile homes, shall

be erected or placed on the Premises hereafter except for temporary structures required for the maintenance or rehabilitation of the Premises, such as construction trailers;

c. the dumping of ashes, trash, rubbish, or any other unsightly or offensive materials is prohibited on the Premises;

d. the Premises shall not be divided or subdivided in law or in fact and the Premises shall not be devised or conveyed except as a unit; and,

e. no above ground utility transmission lines, except those reasonably necessary to serve the House on the Premises, may be created on the Premises, subject to utility easements already recorded.

6. INDEMNIFICATION; TAXES; LIENS.

6.1 INDEMNIFICATION. Grantor hereby agrees to pay, protect, indemnify, hold harmless and defend at its own cost and expense, Grantee, its agent, directors and employees, or independent contractors from and against any and all claims, liabilities, expenses, costs, damages, losses, and expenditures (including reasonable attorney's fees and disbursements hereafter incurred) arising out of or in connection with injury to or death of any person; physical damage to the Premises; the presence or release in, on, or about the Premises, at any time, of any substance now or hereafter defined, listed, or otherwise classified pursuant to any law, ordinance or regulation as a hazardous, toxic, pollution, or contaminating substance; or other injury or other damage occurring on or about the Premises, unless such injury or damage is caused by Grantee or any agent, trustee, employee, or contractor of Grantee. In the event that Grantor is required to indemnify Grantee pursuant to the terms of this section, the amount of such indemnity, until discharged, shall constitute a lien on the Premises with the same effect and priority as a mechanic's lien. Provided, however, that nothing contained herein shall jeopardize the priority of any recorded lien of mortgage or deed of trust given in connection with the promissory note secured by the Premises.

6.2. TAXES. Grantor shall pay immediately, when first due and owing, all general taxes, special taxes, special assessments, water charges, sewer service charges, and other charges which may become a lien on the Premises unless Grantor timely objects to the amount or validity of the assessment or charge and diligently prosecutes an appeal thereof, in which case the obligation to pay such charges shall be suspended for

the period permitted by law for prosecuting such appeal and any applicable grace period following completion of such action. Grantee is hereby authorized but in no event required or expected, to make or advance upon three (3) days prior written notice to Grantor in the place of Grantor, any payment relating to taxes, assessments, water rates, sewer rentals and other governmental or municipality charge, fine, imposition, or lien procured from the appropriate public office without inquiry into the accuracy of such bill, statement or assessment or into the validity of such tax, assessment, sale or forfeiture. Such payment if made by Grantee shall constitute a lien on the Premises with the same effect and priority as a mechanic's lien. Provided, however, that nothing contained herein shall jeopardize the priority of any recorded lien of mortgage or deed of trust given in connection with a promissory note secured by the Premises.

6.3 LIENS. Any lien on the Premises created pursuant to any paragraph of this Restriction may be confirmed by judgment and foreclosed by Grantee in the same manner as a mechanic's lien. Provided, however, that no lien created pursuant to this Restriction shall jeopardize the priority of any recorded lien of mortgage or deed of trust give in connection with a promissory note secured by the Premises.

7. GRANTEE'S REMEDIES. Grantee may, following reasonable written notice to Grantor, institute suit(s) to enjoin any violation of the terms of this Restriction by ex parte, temporary, preliminary, and/or permanent injunction, including prohibitory and/or mandatory injunctive relief, and to require the restoration of the Premises and Buildings to the condition and appearance required under this Restriction. Grantee shall also have available all legal and other equitable remedies to enforce Grantor's obligations hereunder.

In the event Grantor is found to have violated any of its obligations, Grantor shall reimburse Grantee for any costs or expenses incurred in connection with Grantee's enforcement of the terms of this Restriction, including all reasonable Court costs, and attorney's, architectural, engineering, and/or expert witness fees.

Exercise by Grantee of one remedy hereunder shall not have the effect of waiving or limiting any other remedy, and the failure to exercise any remedy shall not have the effect of waiving or limiting the use of any other remedy or the use of such remedy at any other time.

8. NOTICE FROM GOVERNMENT AUTHORITIES. Grantor shall deliver to Grantee copies of any notice of violation or lien relating to the Premises received by Grantor from any government authority within five (5) days of receipt by Grantor. Upon request by Grantee, Grantor shall promptly furnish Grantee with evidence of Grantor's compliance with such notice or lien where compliance is required by law.

9. NOTICE OF PROPOSED SALE. Grantor shall promptly notify Grantee in writing of any proposed sale of the Premises. Grantor shall provide new owners with a copy of this restriction and provide the opportunity for Grantee to explain the terms of the Restriction to potential new owners prior to sale closing.

10. VALIDITY AND SEVERABILITY. The invalidity of M.G.L. Chapter 184 or any part thereof shall not affect the validity and enforceability of this Agreement according to its terms. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement.

11. RECORDING. The Grantor agrees to record this Agreement with the appropriate Registry of Deeds and to file a copy of such recorded instrument with the Grantee.

12. RESTRICTIONS SHALL RUN WITH THE LAND. The burden of these restrictions shall run with the land and shall be binding on all future owners of the interest therein. The right of enforcement shall be as provided for in the Act.

Anything contained herein to the contrary notwithstanding, an owner of the Premises, shall have no obligation pursuant to this instrument where such owner shall cease to have any ownership interest in the Premises by reason of a bona fide transfer. The restrictions, stipulations, and covenants contained herein shall be inserted by Grantor, verbatim or by express reference, in any subsequent deed or other legal instrument by which Grantor divests itself of either the fee simple title to or any lesser estate in the Premises or any part thereof, including by way of example and not limitation, a lease of all or a portion of the Premises.

13. INTERPRETATION. The following provisions shall govern the effectiveness, interpretation, and duration of this Agreement.

a. Any rule of strict construction designed to limit the breadth of restrictions on alienation or use of Premises shall not apply in the construction or interpretation of this Restriction and this instrument shall be interpreted broadly to affect its Purpose and the transfer of rights and the restrictions on use herein contained.

b. This instrument is executed in two counterparts, one of which is to be retained by Grantor and the other, after recording, to be retained by Grantee. In the event of any disparity between the counterparts produced, the counterpart retained by Grantee shall in all cases govern. Except as provided in the preceding sentence, each counterpart shall constitute the agreement of the parties.

c. This instrument is made pursuant to the Act, but the invalidity of such statute or any part thereof shall not affect the validity and enforceability of this Restriction according to its terms, it being the intent of the parties to agree and to bind themselves, their successors and their assigns in perpetuity to each term of this instrument whether this instrument be enforceable by reason of any statute, common law, or private agreement either in existence now or at any time subsequent hereto.

d. Nothing contained herein shall be interpreted to authorize or permit Grantor to violate any ordinance or regulation relating to building materials, construction methods or use. In the event of any conflict between any such ordinance or regulation and the terms hereof Grantor promptly shall notify Grantee of such conflict and shall cooperate with Grantee and the applicable governmental entity to accommodate the purposes of both this Restriction and such ordinance or regulation.

14. RECORDING AND EFFECTIVE DATE. The terms of this Agreement shall not take full force or effect until approved and signed by the Massachusetts Historical Commission, Andover Preservation Commission and the Andover Board of Selectmen and recorded with the proper Registry of Deeds.

15. EXTINGUISHMENT. Grantor and Grantee hereby recognize that an unexpected change in the conditions surrounding the Premises may make impossible the continued use of the Premises for the purpose of this Preservation Restriction Agreement and necessitate extinguishment of the Preservation Restriction Agreement, provided, however, that no such extinguishment shall prevent the Grantor from rebuilding the dwelling in accordance with Section 4 hereof. Such a condition may include, but is not

limited to, partial or total destruction of the House resulting from casualty. Such an extinguishment must meet all the requirements of the Act and the laws of the Commonwealth for extinguishment, including approvals following public hearings by the Town of Andover and by the Massachusetts Historical Commission to determine that such extinguishment is in the public interest.

16. BASELINE DOCUMENTATION. The Grantor shall record a comprehensive set of high resolution photographic documentation images depicting in detail the exterior appearance of the House, said photographic documentation to be filed with and maintained by the Town of Andover and the Andover Preservation Commission in archival quality print and digital electronic format at Town of Andover municipal offices, together with a numbered list of the photographs indicating photographic view and date taken, said photographic documentation to be used in the administration and enforcement of the Purpose and terms of this Preservation Restriction Agreement. Said baseline documentation is incorporated into this Preservation Restriction Agreement by this reference as **Exhibit G**. An additional copy of the revised baseline documentation shall be filed with the Massachusetts Historical Commission.

17. ARCHAEOLOGICAL ACTIVITIES. The conduct of archaeological activities on the Premises, including without limitation survey, excavation, and artifact retrieval, may occur only following the submission of an archaeological field investigation plan prepared by the Grantor and approved in writing by the Grantee and the State Archaeologist of the Massachusetts Historical Commission (M.G.L. c.9, Sec. 27C, 950 C.M.R. 70.00).

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 4th
day of September, 2018.

O'Brien Homes, Inc.
GRANTOR

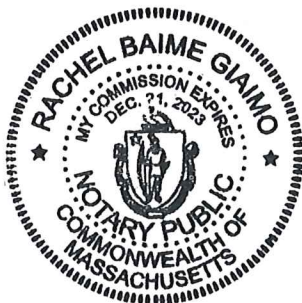
[Signature] Pres. & Treasurer
By: Kevin O'Brien
It's President and Treasurer

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

On this 4th day of September, 2018, before me, the undersigned notary public, personally appeared Kevin O'Brien, the President and Treasurer of O'Brien Homes, Inc. and proved to me through satisfactory evidence of identification, which was ☐ photographic identification with signature issued by a federal or state governmental agency, ☐ oath or affirmation of a credible witness, ☒ personal knowledge of the undersigned, to be the persons whose name are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.

[Signature]
Notary Public: Rachel Baime Giaimo
My Commission Expires: 12/21/23



APPROVAL AND ACCEPTANCE BY THE ANDOVER BOARD OF SELECTMEN

The undersigned hereby certifies that the foregoing preservation restrictions have been approved and accepted pursuant to Massachusetts General Laws, Chapter 184, Section 32, on _____, 2018

ANDOVER BOARD OF SELECTMEN

By _____
Alexander J. Vispoli, Chair

By _____
Laura M. Gregory, Vice Chair

By _____
Christian C. Huntress

By _____
Paul J. Salafia

By _____
Ann W. Gilbert

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

On this _____ day of _____, 2018, before me, the undersigned notary public, personally appeared Alexander J. Vispoli, Chair of the Andover Board of Selectmen, proved to me through satisfactory evidence of identification, which was ☐ photographic identification with signature issued by a federal or state governmental agency, ☐ oath or affirmation of a credible witness, ☐ personal knowledge of the undersigned, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Notary Public:

My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

On this _____ day of _____, 2018, before me, the undersigned notary public, personally appeared Laura M. Gregory as Vice Chair of the Andover Board of Selectmen, proved to me through satisfactory evidence of identification, which was ☐ photographic identification with signature issued by a federal or state governmental agency, ☐ oath or affirmation of a credible witness, ☐ personal knowledge of the undersigned, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

Notary Public:

My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

On this _____ day of _____, 2018, before me, the undersigned notary public, personally appeared Christian C. Huntress as a Member of the Andover Board of Selectmen, proved to me through satisfactory evidence of identification, , which was ☐ photographic identification with signature issued by a federal or state governmental agency, ☐ oath or affirmation of a credible witness, ☐ personal knowledge of the undersigned, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Notary Public:

My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

On this _____ day of _____, 2018, before me, the undersigned notary public, personally appeared Paul J. Salafia as a Member of the Andover Board of Selectmen, proved to me through satisfactory evidence of identification, , which was ☐ photographic identification with signature issued by a federal or state governmental agency, ☐ oath or affirmation of a credible witness, ☐ personal knowledge of the undersigned, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Notary Public:

My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

On this _____ day of _____, 2018, before me, the undersigned notary public, personally appeared Ann W. Gilbert as a Member of the Andover Board of Selectmen, proved to me through satisfactory evidence of identification, , which was ☐ photographic identification with signature issued by a federal or state governmental agency, ☐ oath or affirmation of a credible witness, ☐ personal knowledge of the undersigned, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

Notary Public:

My Commission Expires:

ACCEPTANCE BY THE ANDOVER PRESERVATION COMMISSION

The undersigned hereby certifies that the foregoing preservation restrictions have been approved and accepted pursuant to Massachusetts General Laws, Chapter 184, Section 32.

ANDOVER PRESERVATION
COMMISSION

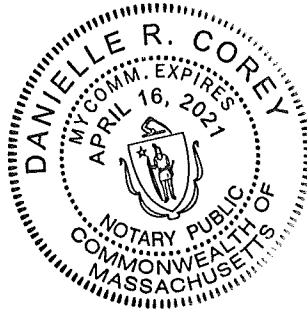
By Karen Herman
Karen Herman, Chair

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

On this 31st day of August, 2018, before me, the undersigned notary public, personally appeared, Karen Herman, Chair of the Andover Preservation Commission proved to me through satisfactory evidence of identification, which was ☒ photographic identification with signature issued by a federal or state governmental agency, ☐ oath or affirmation of a credible witness, ☐ personal knowledge of the undersigned, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

Danielle R. Corey
Notary Public: Danielle R. Corey
My Commission Expires: 4/16/21



APPROVAL BY THE MASSACHUSETTS HISTORICAL COMMISSION

The undersigned hereby certifies that the foregoing preservation restrictions have been approved pursuant to Massachusetts General Laws, Chapter 184, Section 32.

MASSACHUSETTS HISTORICAL
COMMISSION

By _____
Brona Simon
Executive Director and Clerk
Massachusetts Historical Commission

COMMONWEALTH OF MASSACHUSETTS

County: _____

On this _____ day of _____, 2018 before me, the undersigned notary public, personally appeared, Brona Simon, as an Authorized Signatory of the Massachusetts Historical Commission, proved to me through satisfactory evidence of identification, which was ☐ photographic identification with signature issued by a federal or state governmental agency, ☐ oath or affirmation of a credible witness, ☐ personal knowledge of the undersigned, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public:
My Commission Expires:

Exhibit A

Legal Description of Parent Parcel

A certain parcel of land, with the buildings thereon, situated in said Andover at the Southeasterly corner of Lowell Street and Lovejoy Road, being shown as Lot numbered one hundred seventy-one (171) on a plan of land entitled: "Plan of Land in Andover, Mass., as Subdivided by John Philip Enterprises, Inc., dated March 2, 1960", which plan is recorded with North Essex Registry of Deeds as Plan Number 4164, and said Lot contains 30,220 square feet, more or less, and is substantially bounded and described as follows:

NORTHERLY	by Lowell Street one hundred twenty-eight and 78/100 feet;
WESTERLY	by Lovejoy Road, one hundred eighty and 83/100 feet;
SOUTHERLY	by Lot numbered one hundred seventy-two (172), as shown on said plan, one hundred seventy-five feet; and
EASIERLY	by Lot numbered one hundred seventy (170), as shown on said plan, two hundred forty-five and 57/100 feet.

Being all the same premises conveyed to O'Brien Homes, Inc. by Deed dated January 26, 2015 and recorded with the Essex County (Northern District) Registry of Deeds on January 26, 2015 in Book 14112, Page 167.

Exhibit B

Plan Number 4164

[See attached]

PLAN OF LAND
IN
ANDOVER, MASS.
AS SUBDIVIDED BY
JOHN PHILIP ENTERPRISES, INC.
Scale: 1" = 40'

March 2, 1960

ANDOVER PLANNING BOARD
ANDOVER, MASS.

This plan does not require the approval
of the Planning Board.
Date: July 13, 1960

Lawrence Nov. 4, 1960 at 3:17 P.M.
Records: 4 entered in Essex Co. Dist. Reg. of Deeds
See Deeds Rec. B 926, P 357
Plan # 4164
Attest: *[Signature]* Regis.

[Signatures]
James H. Eaton
John H. Colburn
Howard A. King

STREET
To Shawheen Sq.
143.73' to E.C.S.B.

ROUTE 133
ESSEX COUNTY LAYOUT OF 1935

LOWELL
To Lowell

LOT #1

Inc.

LOT #28

Philip Enterprises,

LOT #27

John

LOT #25

Enterprises, Inc.

LOT #24

John

LOT #23

John

LOT #22

John

LOT #21

John

LOT #20

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LOT #19

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LOT #4

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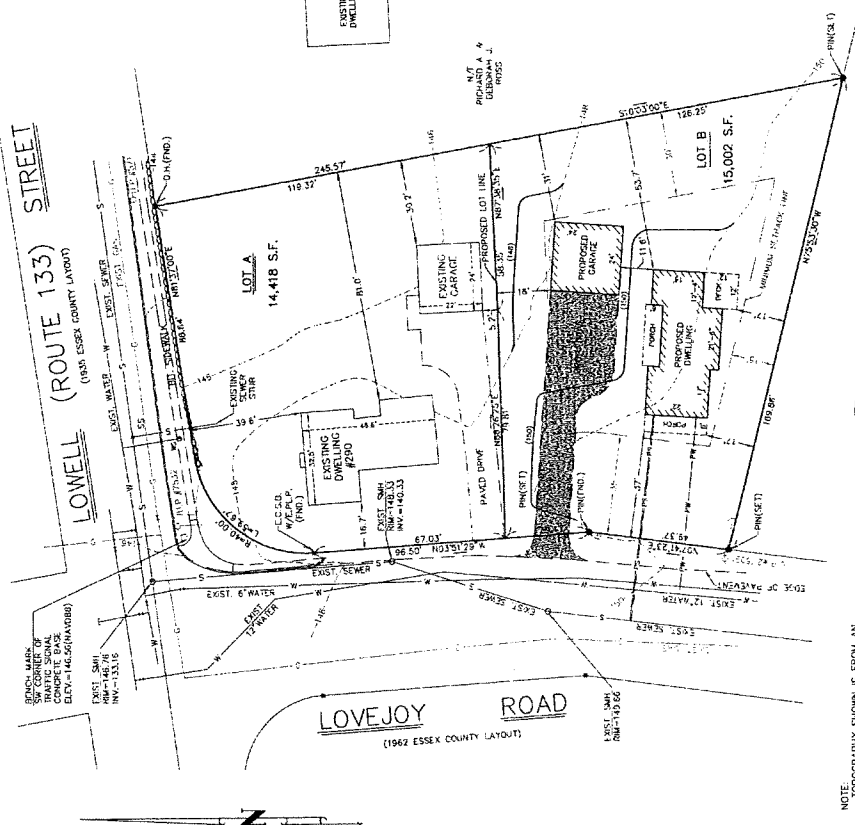
LOT #14

Exhibit C
Plot Plan showing Premises

FOR REGISTRY USE ONLY

LOWELL (ROUTE 133) STREET
(1935 ESSEX COUNTY LAYOUT)

LOWELL (ROUTE 133) STREET
(1935 ESSEX COUNTY LAYOUT)



NOTE: TOPOGRAPHY SHOWN IS FROM AN ON-THE-GROUND TOPOGRAPHIC SURVEY IN FEBRUARY, 2014.

LEGEND:

- ORIGINAL CONTOUR
- PROPOSED GRADING
- EXISTING SEWER
- EXISTING WATER MAIN
- EXISTING WATER SERVICE
- EXISTING GAS MAIN
- PROPOSED 6" SEWER SERVICE
- PROPOSED 1" WATER SERVICE

EXISTING CONDITIONS

PROPOSED CONSTRUCTION

I HEREBY CERTIFY THAT THIS PLAN CONFORMS TO THE RULES AND REGULATIONS OF THE REGISTER OF DEEDS, MASSACHUSETTS.
REG. PROF. LAND SURVEYOR

ANDOVER PLANNING BOARD
APPROVAL OF THIS PLAN UNDER THE SUBDIVISION CONTROL LAW IS NOT REQUIRED

THE ABOVE ENDORSEMENT IS NOT A DETERMINATION AS TO CONFORMANCE WITH ZONING REGULATIONS



DATE: _____
PETER D. GOODWIN
- Reg. Prof. Land Surveyor

REFERENCE PLANS:
PLANS ON FILE AT THE ESSEX COUNTY REGISTER OF DEEDS, NORTHERN DISTRICT
1) PLAN 419A
2) PLAN 407B
3) PLAN 256

OWNER OF RECORD:
GREEN HOMES, INC.
18 CARRINGTON STREET
ANDOVER, MA 01810
DEED BOOK 4112, PAGE 187

PLAN OF LAND
IN
ANDOVER, MASS
PREPARED FOR: GREEN HOMES, INC.
DATE: OCTOBER 12, 2017
SCALE: 1"=20'



andover consultants inc.

1 East River Place
Andover, Mass 01814
Tel: 978.683.1111
Fax: 978.683.1112
Meter

Exhibit D

Andover Historic Building Survey – Inventory Form

[See Attached]

FORM B – BUILDING

MASSACHUSETTS HISTORICAL COMMISSION
MASSACHUSETTS ARCHIVES BUILDING
220 MORRISSEY BOULEVARD
BOSTON, MASSACHUSETTS 02125

Assessor's Number USGS Quad Area(s) Form Number

134 0 4B

Town/City: Andover

Place: (*neighborhood or village*): West Parish-West Andover

Address: 290 Lowell Street

Historic Name: McLanthan-Barnard-Frye House

Uses: Present: residential

Original: residential

Date of Construction: circa 1840

Source: Andover Building Survey

Style/Form: Greek Revival Cape

Architect/Builder: unknown

Exterior Material:

Foundation: stone and granite

Wall/Trim: clapboards

Roof: asphalt

Outbuildings/Secondary Structures:

Small barn south of house demolished 2014,
Garage, 2015.

Major Alterations (*with dates*):

2015 rear addition, 2015 rear ell demolished; chimney stack
on main block removed; windows, exterior sheathing and
trim replaced, interior gutted and renovated.

Condition: good

Moved: no ☐ yes ☒ **Date:** 1922-23

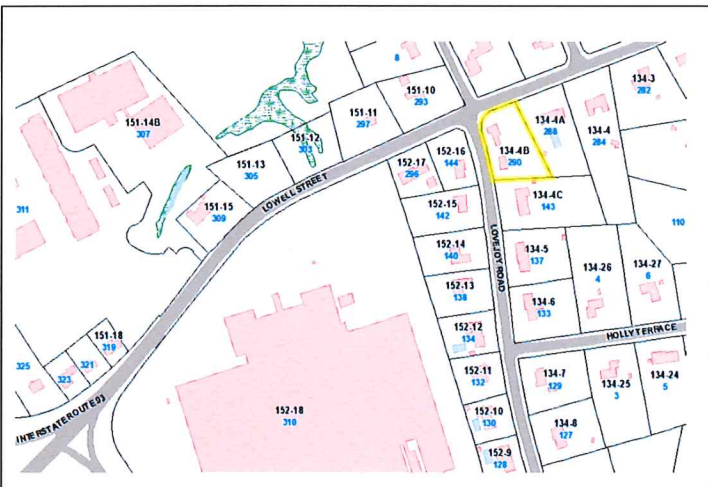
Acreage: .33 acres

Setting: residential

Photograph



Locus Map



Recorded by: Stack/Mofford; James Batchelder, Leo Greene, Karen Herman

Organization: Andover Preservation Commission

Date (*month / year*): 12/19/91, updated 12/20/13,
updated 2/7/18

INVENTORY FORM B CONTINUATION SHEET

TOWN Andover

ADDRESS 290 LOWELL ST.

MASSACHUSETTS HISTORICAL COMMISSION

220 MORRISSEY BOULEVARD, BOSTON, MASSACHUSETTS 02125

Area(s) Form No.

--	--

☐ Recommended for listing in the National Register of Historic Places.

If checked, you must attach a completed National Register Criteria Statement form.

Use as much space as necessary to complete the following entries, allowing text to flow onto additional continuation sheets.

ARCHITECTURAL DESCRIPTION:

Describe architectural features. Evaluate the characteristics of this building in terms of other buildings within the community.

*NOTE: This description includes alterations and additions performed by Kevin O'Brien completed in 2015.

The house at 290 Lowell Street consists of two parallel side-gabled structures linked by a perpendicular connecting ell in a modified "H" form. The gable structures present their eave sides to Lowell Street with the historic cape house portion adjacent to Lowell Street. This historic part of this structure dates to c. 1840 and consists of a one story side-gabled Greek Revival cape form presenting its northern (main) façade to the street.

A note on the 2015 rehabilitation: Unfortunately, at some point in this building's past it was clad in asbestos shingles. As such, a decision was necessitated to replace not only the siding, but all of the exterior trim in kind in 2015. Pine was used to replicate that trim which existed prior, and the entire house was clapboarded in cedar. New construction windows (Harvey Majesty) were also used throughout, requiring custom-made sills, also in pine. Additionally, the old sheathing that had been in contact with the asbestos siding, had to be removed. Throughout the structure the wall and roof sheathing is ½" plywood.

The focal point and main façade of this building is the historic Greek Revival cape structure closest to the street. It is single pile and one story tall. The northern (main) façade presents two wood-clad 6/6 windows (dating from 2015 rehabilitation) on either side of a central door, its symmetry of form a hallmark of the "full house" cape cod form. The central door (replaced during the 2015 rehabilitation) contains four lower panels and four transom lights. There are three sidelights to either side of the door, also replacements for earlier versions of the same and dating from 2015.

The gable ends of this northern portion of the house contain matching fenestration, with two wood-clad 6/6 windows evenly spaced on the ground level floor, and a single 6/6 window at the "attic" level centered within the point of the gable. All of these windows were replaced during the 2015 rehabilitation. There are gable returns on each side, and as in the other elevations, this trim is in pine and an exact replacement for that which existed on the structure before 2015.

The rear (southern) side-gabled structure rises to 1 1/2 stories, but has the same matching fenestration patterns on its gable ends as present on the historic portion of the house (two 6/6 windows on the lower floor and one 6/6 centered on the gable wall on the second floor, all new wood-clad windows from 2015 rehabilitation). There is a shed dormer extending the full length of the southern façade containing three evenly spaced 6 light fixed-pane windows dating from 2015. The southern elevation of this gable structure contains a doorway left of center, with a ground-floor window to either side near the extremity of the wall. Additionally, there is a doorway on the northern side of this structure under the shed-roofed porch on the east side of the connecting ell. Both doors are new wood doors dating to the 2015 rehabilitation. The trim on this part of the house was also replaced in 2015, and is made of pine.

The connecting ell's west wall is flush with the western wall of the rear gable structure and contains two first floor 6/6 wood-clad windows. The ell's east side has a small shed-roofed porch, and two fixed-pane 6 panel windows on the second floor. There is a single turned pine post dating from the 2015 rehabilitation supporting the northeastern corner of the porch roof. All of the windows are wood-clad and date from the 2015 rehabilitation.

The trim on the upper edge of the rake boards, along with that along the eaves and the gable returns represents the most detailed finishing on the exterior. It consists of cyma recta ogee cornice supported by a simple frieze boards. Similar use of an ogee can be found on all exterior window trim. Great care was taken in getting this detail correct when the trim was replaced in 2015.

All three components of the roof of this structure are gray architectural shingles. There are no chimneys in the current structure. Those that previously existed were removed for considerations of the interior plan when the building was remodeled. The foundation is original fieldstone throughout, save a small area at the northeast corner of the rear side-gabled structure that was 'bumped out' during the 2015 rehabilitation. In that area, it is a concrete foundation faced in a fieldstone veneer.

The detached garage is a front-gabled two bay garage of 1 ½ levels and is a new structure dating to the 2015 rehabilitation of the property. It is clapboarded in cedar, and sits on a concrete foundation. The south side has two insulated garage doors with wood veneer. Above the doors and centered in the gable is a 6/6 wood-clad window. There are also eave returns that match those on the historic main block of the house. On the west side of the garage there is a wood entry door on the right-hand side and a 6/6 wood-clad window to the left. The east side has a single 6/6 wood-clad window centered on the wall. There are no openings on the north side of the garage, but there are the same matching trim and gable returns as seen on the south side that match those of the historic house.

Continuation sheet 1

INVENTORY FORM B CONTINUATION SHEET

TOWN Andover

ADDRESS 290 LOWELL ST.

MASSACHUSETTS HISTORICAL COMMISSION

220 MORRISSEY BOULEVARD, BOSTON, MASSACHUSETTS 02125

Area(s) Form No.

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HISTORICAL NARRATIVE

Discuss the history of the building. Explain its associations with local (or state) history. Include uses of the building, and the role(s) the owners/occupants played within the community.

The 12 acres of land was owned by John Flint at the time of his death in 1825 and was one of three parcels. The three parcels were sold to Moses Parker, a house joiner on Mar. 23, 1825 from the Flint estate. Parker took a load from Daniel P. King esquire of Danvers for \$700. Two parcels were sold off and King took possession of the remaining 12 acre parcel on May 11, 1839. King then sold for \$360 to Ephraim O. Richardson of Lowell and Thomas Boynton of Dracut in July 1839. The deed restricted ownership until Jan. 1, 1840 as the land had been leased to Nathan Abbot 4th for the season. The property was then sold to George Parks, a Painter, wife Sarah for \$350 on July 2, 1841. Lewis G. P. Adams of Lowell, MA purchased the property with buildings for \$800 on Feb. 6, 1846.

Samuel and Henry L. S. McLanathan purchased the property for \$1000 on Nov. 9, 1847 from Lewis G. P. Adams Henry quit claimed the deed to Samuel in Nov. 1851.

The 1850 Andover Valuation lists Samuel McLanathan at this location. Dwell. House \$375, barn \$50, 12 acres adjoining \$384 = \$809. Farm stock \$20. Samuel was born in Rutland, MA on October 28, 1782. He married Keziah Lealand, born June 15, 1787. Keziah joined West Parish Church by letter on May 3, 1849. Samuel deeds the property to Keziah on Feb. 21, 1852. Samuel died on July 28, 1863 at age 81. Keziah died on September 7, 1872 at age 86. They are interred at West Parish Cemetery in the old section lots #25 and #26. The farm consisted of 12 acres on corner of Lowell St. and Lovejoy Road.

Keziah sold the property to brothers Abraham S. and Horatio Barnard on November 7, 1865 and both co-own the property. Abraham was b. July 22, 1826 and Horatio on Apr. 22, 1829 sons of Herman & Elizabeth (Stickney) Barnard. The 1872 and 1888 maps list Abraham S. Barnard living at this location. Abraham married late in life at age 62 on June 21, 1889 to Melvina (Thorne) Wentworth. Abraham moved to Tewksbury deeds to Horatio Barnard on June 14, 1889, rec. Dec. 11, 1897. Abraham died in Derry, NH on Feb. 16, 1897. Horatio then sells to nephew Edwin L. Barnard on April 29, 1902. Edwin had married Helen C. Pearson. Edwin is first listed as a printer but later a bank cashier. They had six children when living in Andover, moving to Winchester, MA about 1885. Edwin held the home for seven years then sold to Fred E. & Alice Herson in February 1909. Herson owned for three years.

Mary L. Marshman purchased on February 4, 1912 and the house remained with family members until 1933.

In 1933 John Fielding born in England in 1899 and his wife Florence (Schofield) Fielding b. 1895 England, purchased the property. John had immigrated to the US in 1921 and was a textile designer of carpets working and living in Lawrence before coming to Andover. In the 1940 US census Fielding has a daughter Mary b. 1935 and his mother Mary Fielding, age 70 widow, is living with him. Florence died on August 15, 1955 at age 60 and his mother Mary in September 1958. Both are interred at West Parish Cemetery. John Fielding remarried to A. Doris and they sold the home in March 1960 to John Philip Enterprises, Inc. owner, Harry Axelrod. Axelrod had also acquired the former Wild Rose Farm at #262 Lowell St., created the Wild Rose neighborhood development and the Clover Farm development on Lowell St., across the street from IRS, building the Rolling Green Motel. The Fielding property was sub-divided into house lots on Lowell St. and then resold to Stanley A. & Mary C. Bozen on Nov. 14, 1960.

The Bozen family held the property for 55 years, the heirs selling to O'Brien Homes, Inc. on Jan. 26, 2015.

See plan #4164 – 1960 Essex Northern Registry Deeds, Lawrence, MA

When Kevin O'Brien, O'Brien Homes, Inc. purchased this historic home in 2015 it was in very poor condition. Due to its diminutive size and condition it would normally have fallen victim to demolition. Mr. O'Brien intended to rehabilitate the house rather than demolish it. He then applied to the Zoning Board of Appeals for consideration of a Dimensional Special Permit-Historic Preservation in 2014-2015. (Rehabilitation of the property that occurred during 2015 is recounted in the architectural description above.) The purpose of this special permit is to encourage preservation of properties that may otherwise be lost to demolition. A special permit by the Zoning Board of Appeals was granted in 2017 that allowed subdivision of this property at 290 Lowell Street for the purpose of moving an additional circa 1850 historic house of a similar style from 58 Haverhill Street to the site for preservation.

BIBLIOGRAPHY and/or REFERENCES

Owners;

John Flint estate, John Flint Extr. 1825

Moses Parker – Mar. 23, 1825 – b. 238 leaf 277 – 3 parcels \$700

Daniel P. King, Esq. – Nov. 4, 1825 – b. 238 leaf 278 – mtg. deed

Thomas E. Payson – Mar. 16, 1839 – b. 311 leaf 299 – at auction

Continuation sheet 2

INVENTORY FORM B CONTINUATION SHEET

TOWN Andover

ADDRESS 290 LOWELL ST.

MASSACHUSETTS HISTORICAL COMMISSION

220 MORRISSEY BOULEVARD, BOSTON, MASSACHUSETTS 02125

Area(s) Form No.

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Daniel P. King, Esq. – May 11, 1839 – b. 311 leaf 299
Ephraim O. Richardson & Thomas Boynton – July 6, 1839 – b. 314 leaf 136
George Parks, wife Sarah – July 3, 1841 – b. 326 leaf 33 - \$350
George Parks, wife Sarah – Sept. 7, 1843 – b. 339 leaf 41
Lewis G. P. Adams – Feb. 6, 1846 – b. 365 leaf 285 - \$800 w/blds
Samuel McLanathan & Henry L. S. McLanathan – Nov. 9, 1847 – b. 389 leaf 253
Samuel McLanathan – Nov. 6, 1851 – b. 452 leaf 285
Keziah L. McLanathan, wife of Samuel – Feb. 21, 1852 – b. 456 leaf 158
Abraham S. Barnard & Horatio Barnard – Nov. 7, 1865 – b. 693 leaf 23
Horatio Barnard – June 14, 1889, rec. Dec. 11, 1897 – b. 159 p. 493 – 12 acres w/blds
Edwin L. Barnard, wife Helen – Apr. 29, 1902 b. 265 p. 311
Fred E. Herson - Feb. 27, 1909 - b. 270 p. 160
Fred E. & Alice M. Herson - June 18, 1910 - b. 291 p. 92
Mary L. Marshman - Feb. 4, 1912 - b. 314 p. 149
Mary L. Marshman estate, Joseph Marshman - Oct. 12, 1912 - b. 325 p. 486
Sidney F. Marshman - June 30, 1921 - b. 553 p. 350
John & Florence Fielding - Aug. 19, 1933 - b. 571 p. 531 - 12 acres
John Fielding - Aug. 15, 1955 - probate
John & A. Doris Fielding - Mar. 3, 1960 - b. 911 p. 208
John Philip Enterprises, Inc. Harry Axelrod - Mar. 3, 1960 - b. 911 p. 208
Stanley A. & Mary C. Bozen - Nov. 14, 1960 - b. 926 p. 357 30,220 sq. feet
Stanley A. Bozen estate, May 8, 1995 heir Mary C.
Mary C. Bozen estate, June 27, 2013, Mark A. Bozen Adm.
O'Brien Homes, Inc. - Jan. 26, 2015 - b. 14112 p. 167



290 Lowell Street, McLanathan House, circa 1900

INVENTORY FORM B CONTINUATION SHEET

MASSACHUSETTS HISTORICAL COMMISSION
220 MORRISSEY BOULEVARD, BOSTON, MASSACHUSETTS 02125

TOWN Andover

ADDRESS 290 LOWELL ST.

Area(s) Form No.

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290 Lowell Street, Mc Lanthan-Barnard House, 1976

Exhibit E

Decision No. Z-17-105 of the Zoning Board of Appeals, Andover, Massachusetts

[See Attached]



Bk 15351 Pg 333 #130
01-03-2018 @ 10:42a

DECISION OF THE

ZONING BOARD OF APPEALS

ANDOVER, MASSACHUSETTS

Decision Number: Z-17-105

Date Application Filed: July 7, 2017

Applicant: O'Brien Homes, Inc.
18 Cassimere Street
Andover, MA 01810

Premises Affected: Land & buildings at 290 Lowell Street
Located in Zoning District SRB
Town Assessor's Map 134B, Lot 4
Essex North Registry of Deeds Book 14112, Page 167, Book 5528, Page 357

Owner of Record: O'Brien Homes, Inc.
18 Cassimere Street
Andover, MA 01810

Relief Requested: Special Permit under Article VIII, §7.9 and/or Variance from Article VIII, §7.9.4.2 and/or §4.1.2

Public Notice: Notice published in the Andover Townsman on July 20 and July 27, 2017, and notice sent by mail, postage prepaid, to all interested parties pursuant to the provisions of Massachusetts General Laws.

Public Hearing(s) held: August 3, 2017, continued on November 2, 2017 & December 7, 2017

Decision of the Board: Special Permit under Article VIII, §7.9 GRANTED, and Variance from the requirements of Article VIII, §7.9.4.2 GRANTED

Members participating: Oltman, McDonough, Rechisky, Faulk, Bordonaro

Date of Decision: December 8, 2017

(Space above reserved for Registry of Deeds)
(Space below reserved for Town Clerk)

RECEIVED
TOWN CLERK'S OFFICE
DEC - 8 P 1:15
TOWN OF ANDOVER, MASS

290 Lowell Street
Decision No. Z-17-105

I. FACTS PRESENTED AT THE PUBLIC HEARING

A public hearing was held in Conference Room A, 3rd Floor, Town Offices, 36 Bartlet Street, Andover, MA on Thursday, August 3, 2017 on the petition of O'Brien Homes for a Special Permit under Article VIII, §7.9 and/or Variance from Article VIII, §7.9.4.2 and/or §4.1.2 to subdivide the parent parcel into two lots and to maintain the historic house on the parent lot that will lack the minimum required area. Present were: Elizabeth Oltman, Chair; Carol C. McDonough, Clerk; Lisa Rechisky and Daniel Casper, Members; Denise Bordonaro, Brian Corrigan and Kathy Faulk, Associate Members. In the absence of member Neil Magenheim the Chair designated Associate Member Denise Bordonaro to sit in his place, and designated Associate Members Brian Corrigan and Kathy Faulk to sit as alternates for the case.

Attorney Mark Johnson appeared before the Board on behalf of the Applicant. The Applicant is requesting a Dimensional Special Permit for Historic Preservation pursuant to §7.9 of the Zoning By-law and a variance from the provisions of §7.9.4.2 related to the lot area of the proposed Host Lots.

The Parent Parcel is located at 290 Lowell Street in the SRB district. The Applicant proposes to subdivide the Parent Parcel property into two Host Lots. The existing house on the Parent Parcel, and proposed to be retained on one of the Host Lots, is the McLanthan-Barnard House, built in 1840 and is listed on the Massachusetts Registry of Historic Places and Andover's Historic Building Survey. The Host Lot designated as Lot A on the Plot Plan (dated May 25, 2017) will maintain the existing historic home. The subdivided Host Lot designated as Lot B on the Plot Plan will contain a historic structure to be relocated from 58 Haverhill Street. Pursuant to Zoning By-law Section 7.9.4.8, which allows for the creation of multiple Host Lots from a Parent Parcel, an additional, separate application for a Dimensional Special Permit for Historic Preservation has been submitted under Z-17-104 for the relocation of the historic home at 58 Haverhill Street to Lot B. **Lot A** is the subject of this application.

The Applicant proposes to maintain the historic McLanthan-Barnard House, currently located at 290 Lowell Street on Host Lot A. The historic house was built around 1840 and is listed on the Massachusetts Registry of Historic Places and Andover's Historic Building Survey. The house was restored in 2015 with approval from the Andover Preservation Commission. The Preservation Commission provided a brief description of the house within their letter to the Board of August 3, 2017.

Mr. Johnson indicated that the Host Lot, proposed Lot A, in general meets the requirements found within §7.9.4.2.b of the Zoning By-law with the exception of lot area. The Parent Parcel contains 29,419 SF of lot area. After the proposed subdivision, Host Lot A will provide 14,839 SF of lot area where 15,000 SF is required. Lot A is proposed to meet all other dimensional requirements for a Dimensional Special Permit within the SRB district: 88 feet of lot frontage along Lowell Street, where 75 feet is required; front yard setback of 39.6 feet, where 35 is required; side yard setback of 16.7 feet, where 15 feet is required; and rear yard setback of 81 feet where 30 feet is required. The Applicant has restored the existing structure in a manner that had the full approval of the Andover Preservation Commission and was granted a preservation award on 2016. The historic structure will be preserved in its existing location. The Applicant will record a historic preservation deed restriction for Host Lot A.

Mr. Johnson indicated that the Parent Parcel was subject to a taking for the layout of Lovejoy Road on October 16, 1962. Prior to the taking, the Parent Parcel contained 30,631 SF, enabling Lot A to have had 15,629 SF when subdivided. Mr. Johnson classifies this taking as a hardship as the justification for zoning relief in the form of a variance from Section 7.9.4.2.b. Mr. Johnson noted that Section 4.1.3.4 of the Zoning By-law provides that "public acquisition of any portion of a lot for the purpose of laying out or altering a public road shall not be construed to render the resulting lot or existing structures upon it to be dimensionally non-conforming or to disqualify the resulting lot for separate sale of for otherwise legal binding, provided that the width of the strip thus acquired does not exceed 10 feet."

290 Lowell Street
Decision No. Z-17-105

William MacLEOD, PE, of Andover Consultants, Inc., appeared for the application. He stated that the taking on the Parent Parcel was a total of 1,214 SF and was acquired by the Town in the 1960's. He stated that the lot was previously over 30,000 SF prior to the taking. The acquired land was less than 10 feet in width, meeting the requirements set forth in Section 4.1.3.4 of the By-law.

Casey Dowgiert, of i3 Architects, appeared for the Applicant. She stated that the Robinson-Cohen-Barrett House to be moved to proposed Host Lot B is an example of Gothic Revival architecture. She stated that subdivision of the existing property containing the McLanthan-Barnard House and moving the dwelling from 58 Haverhill Street would put it into better "context" with the existing historic home at 290 Lowell Street and other historic structures along Lowell Street in the area.

Karen Herman, Chair of the Andover Preservation Commission, stated that the Commission fully supports this proposal. The historically significant McLanthan-Barnard House, built in 1840, is listed on Andover's Historic Building Survey. An important aspect of the Applicant's proposal is the care in which he restored the existing house on 290 Lowell Street. The proposed house to be moved, the Robinson-Cohen-Barrett House, at 58 Haverhill Street is listed as a contributing member of the Shawsheen National Historic Register District. Ms. Herman stated houses of its size and scale are frequently subject to demolition by developers. The Preservation Commission supports the relocation of the dwelling to Lot B due to the size and look of the existing historic house at 290 Lowell Street. The Commission met on February 14, 2017 and unanimously affirmed their support of the Historic Preservation Special Permit in their letter to the Board dated June 12, 2017, with conditions regarding the successful relocation of the house. Ms. Herman noted that preserving a historic home by a historic preservation deed restriction is ideal and it is a compelling reason to grant the special permit.

Due to the late hour at which the application was opened, the Board took comments from the public.

Mr. James Tammaro, 143 Lovejoy Road, immediate abutter to the subject property, spoke against the application. He stated that a previous application to subdivide the Parent Lot and build a new house was denied by the Board in 2014. He stated that the new Host Lot A does not conform to By-Law Section 7.9 and that the Applicant was requesting a "variance from a variance." He stated that the Lovejoy Road area is not a historic district and all houses are on larger lots. Mr. Tammaro submitted letter to the Board dated August 2, 2017, with additional comments.

Mr. Tony Stankowitz, 4 Holly Lane, spoke against the application. He stated that the intersection of Lovejoy Road with Lowell Street is a dangerous intersection with a lot of traffic. He additionally stated that an additional house with a basement would contribute to water ponding problems currently experienced in the area.

Mr. Johnson responded to the residents. He stated that it is likely the house at 58 Haverhill Street will be demolished without the proposed relocation. However, he noted that the Board does not have to consider demolition of the historic structure as stated within the Bylaw Section 7.9.5. He noted that there exists a significant treed buffer between 290 Lowell Street and 143 Lovejoy Road, which will be maintained. An Interdepartmental Review was conducted on 7/18/17 for the subject application and no issues were raised by Town Staff.

Associate Member Faulk questioned whether this application was a repetitive petition under Section 16 of the Massachusetts Zoning Act, as the appeal of the prior decision denying the earlier application (Z-14-106) had only recently been dismissed.

Mr. Johnson stated that Lot A was the subject of a prior decision, but since that time, the Andover Zoning By-law had changed. He stated that this application is substantially different than the prior application. Further, it

290 Lowell Street
Decision No. Z-17-105

has been over two years (the time period outlined in Section 16 of the Massachusetts Zoning Act) since the Board filed their previous decision. Therefore, he represented that the application was not a repetitive petition.

The Board voted unanimously to continue the public hearing to its next meeting on September 7, 2017, to receive additional information from Town Counsel regarding the repetitive petition issue. The Applicant requested two continuances.

The continued public hearing was held in Conference Room A, 3rd Floor, Town Offices, 36 Bartlet Street, Andover, MA on Thursday, November 2, 2017. Again present were: Elizabeth Oltman, Chair; Carol C. McDonough, Clerk; and Lisa Rechisky, Members; and Denise Bordonaro, Associate Member, designated to sit for Neil Magenheim. Associate Member Kathy Faulk was designated to sit for Daniel Casper.

With regard to the repetitive petition concern, Section 16 of the Massachusetts Zoning Act indicates that "No appeal, application, or petition, which has been unfavorably and finally acted upon by the special permit granting or permit granting authority shall be acted favorably upon within two years after the date of final unfavorable action unless said special permit granting authority or permit granting authority finds, by a unanimous vote....specific and material changes in the conditions upon which the previous unfavorable action was based..."

Town Counsel Thomas Urbelis provided the Board with a Massachusetts Continuing Legal Education publication the authors of which suggested that final unfavorable action would be considered to occur when the Superior Court case for the prior application (Z-14-106) was dismissed by a Joint Stipulation of Dismissal on July 7, 2017. However, those authors did not provide any case law to support their suggestion. Attorney Mark Johnson did not provide any appellate case to support his argument that the two year clock started on December 12, 2014 when the decision was filed with the Town Clerk, but he did provide the Land Court case of Gaudet v. Mazzone, 16 LCR 403 (2008) which appears to conclude that the final action was the filing of the decision with the Town Clerk.

Attorney Mark Johnson again appeared for the Applicant. He summarized the applications before the Board. Mr. Johnson confirmed that historic preservation deed restrictions will be recorded for both Lot A and Lot B and two historic homes would be preserved with the approval of the application. Mr. Johnson confirmed that the Applicant would agree to any conditions requested by the Preservation Commission.

A revised plan, prepared by Andover Consultants, Inc., dated October 12, 2017, was received by the Board. Mr. Dennis Griecci, PE, of Andover Consultants, Inc. appeared before the Board. Mr. Griecci stated that the proposed subdivision line had been relocated on the plan. Proposed Host Lot B, the subject of the companion application Z-17-104, no longer requires a variance from By-law Section 7.9.4.2.b. The proposed lot size for Lot A is 14.418 SF and continues to require a variance from By-law Section 7.9.4.2.b. All frontage and setback requirements of By-law Section 7.9.4.3.b continue to be met for Host Lot A.

Mr. Johnson indicated that the justification for the variance is the hardship resulting from the property taking in 1962 along Lovejoy Road and restated provision of By-law Section 4.1.3.4

Kevin O'Brien, the Applicant, supplied the Board with photos of the existing house on 290 Lowell Street, both before and after his restoration of the structure. He stated that his restoration of the house had won a preservation award from the Preservation Commission.

290 Lowell Street
Decision No. Z-17-105

Casey Dowgiert, of i3 Architects, appeared before the Board to define the portions of the house and barn structures that are to be relocated to proposed Host Lot B. She stated that the two proposed garage locations provide sufficient buffer area between Host Lot A and Host Lot B.

Mr. Johnson then noted that the intent of the Dimensional Special Permit for Historic Preservation By-law is a tool by which to preserve houses deemed to be worth saving by the Andover Preservation Commission. The historic preservation deed restriction is critical for both lots in this location. Mr. Johnson noted that a historic dwelling should not have to be derelict to receive consideration for a Dimensional Special Permit for Historic Preservation.

No one else appeared before the Board to speak either for or against the petition. The Board voted unanimously to waive a viewing of the premises and to close the public hearing. The Board then proceeded to deliberate the matter. In deliberation, the sense of the Board was to approve the requested special permit with appropriate findings and conditions. The Board voted unanimously to continue its deliberation to its regular meeting to be held on December 7, 2017 for the purpose of reviewing and voting on the final decision, findings and conditions.

In addition to the written application, the following documents and materials were received by the Board and considered at the public hearing:

- "Plan of Land in Andover, Mass., prepared for O'Brien Homes, Inc.," prepared by Andover Consultants, Inc. and dated May 25, 2017
- "Plan of Land in Andover, Mass., prepared for O'Brien Homes, Inc.," prepared by Andover Consultants, Inc. and dated October 12, 2017
- Letter from Karen Herman, Chair of the Andover Preservation Commission, to the Zoning Board of Appeals, dated June 12, 2017.
- Memorandum from Karen Herman, Chair of the Andover Preservation Commission, to the Zoning Board of Appeals dated August 7, 2017
- Memorandum from Karen Herman, Chair of the Andover Preservation Commission, to the Zoning Board of Appeals dated September 7, 2017
- Decision of Board of Appeals Z-14-106, dated December 12, 2014
- Form B Massachusetts Archives Building Form for 290 Lowell Street, taken from the Massachusetts Historical Commission website
- Quitclaim Deed for transfer of 290 Lowell Street to O'Brien Homes, Inc., dated January 26, 2015 and recorded at E.N.R.D. Book 14112, Page 167
- Notice of acquisition of property by the Town of Andover, dated October 16, 1962
- Draft of proposed Preservation Restriction Agreement
- Letter from Thomas J. Urbelis, Town Counsel, to the Zoning Board of Appeals, dated July 7, 2017
- Letter from Thomas J. Urbelis, Town Counsel, to the Zoning Board of Appeals, dated August 28, 2017
- Letter from Mark Johnson, Johnson & Borenstein, LLC, to the Zoning Board of Appeals, dated October 5, 2017
- Letter from Mark Johnson, Johnson & Borenstein, LLC, to the Zoning Board of Appeals, dated October 27, 2017

290 Lowell Street
Decision No. Z-17-105

- Letter from James Tammaro & Lisa Tammaro, 143 Lovejoy Road, to the Zoning Board of Appeals, dated August 2, 2017
- Addendum to Letter submitted by James & Lisa Tammaro, 143 Lovejoy Road, to the Zoning Board of Appeals, dated August 3, 2017
- Folio entitled '290 Lowell Street; House Pre-Renovations' submitted by Mark Johnson, received October 27, 2017, undated
- Folio entitled '290 Lowell Street; Existing House & Barn Prior to Renovations' submitted by Mark Johnson, received October 27, 2017, undated
- Renderings of moved/renovated house prepared by i3 Architects received from Mark Johnson on August 3, 2017, undated
- 'Area of Taking' partial plan submitted by W. MacLeod on August 3, 2017, undated
- Addendum to Petition of O'Brien Homes, Inc. submitted with application, undated
- Flash drive of Power Point presentation, received from Mark Johnson on 11/2/17

The Board deliberated and voted to approve the following findings and decision at a public meeting held in Conference Room A, 3rd Floor, Town Offices, 36 Bartlet Street, Andover, MA on Thursday, December 7, 2017. Present and voting were: Elizabeth Oltman, Chair; Carol C. McDonough, Clerk; Lisa Rechisky, Member; and Denise Bordonaro and Kathy Faulk, Associate Members sitting in place of Neil Magenheimer and Daniel Casper.

II. FINDINGS AND DECISION OF THE BOARD

The Board reviewed the information provided by Town Counsel and Mr. Johnson and found that the differences between the current application and the prior application were substantial. Further, the Board found that the revision to the By-law adopted by the Town changes the conditions upon which the previous unfavorable action was based. Therefore, the Board finds that the application is not a repetitive petition.

The purpose of By-law Section 7.9 is to encourage the preservation of buildings, structures, sites and settings of historic significance, by allowing such buildings or features to remain in place, or be moved to another location rather than be demolished or otherwise compromised.

The structure currently located at 290 Lowell Street meets the definition of a historic structure by virtue of it being listed per §7.9.2.1 on the Massachusetts Registry of Historic Places and Andover's Historic Building Survey, as certified by the Andover Preservation Commission.

Section 7.9.4 of the By-law sets forth specific standards and regulations that shall be applied to a Dimensional Special Permit for Historic Preservation. The Board has reviewed the Application and finds as follows:

1. The lot is located in the SRB district. (§7.9.4.1)
2. The Host Lot (Lot A), containing 14,418 SF of land will not meet the current requirements of §7.9.4.2.b having less than 15,000 square feet of contiguous upland and will require a variance from this Section of the By-Law.
3. The Host Lot (Lot A) meets all other dimensional requirements for a Dimensional Special Permit within the SRB district: 88 feet of lot frontage, where 75 feet is required; front yard setback of 39.6 feet, where 35 is required; side yard setback of 16.7 feet, where 15 feet is required; and rear yard setback of 81 feet where 30 feet is required. (§7.9.4.3.b)
4. The Host Lot (Lot A) has its required frontage on a public way (§7.9.4.4)
5. The Host Lot (Lot A) is to be served by municipal sanitary sewer and water. (§7.9.4.5)
6. The Host Lot (Lot A) is not located in the SRC Zoning District, so §7.9.4.6 does not apply.

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7. No New Lot is to be created, so §7.9.4.7 does not apply.
8. The Parent Parcel is to be divided to create more than one Host Lot and a separate, related application for a Dimensional Special Permit for Historic Preservation has been filed for Host Lot B (Z-17-104). (§7.9.4.8)
9. The Host Lot is not a vacant existing non-conforming lot, so §7.9.4.9 does not apply
10. The Board has determined that a historic structure can be placed on Host Lot B, with appropriate conditions, without detrimental effect on abutting properties or the street on which the lot has frontage. (§7.9.4.10)

Section 7.9.5 of the By-law sets forth specific findings that shall be applied to a Dimensional Special Permit for Historic Preservation. The Board finds that keeping the existing structure at 290 Lowell Street and relocating the historic structure from 58 Haverhill Street are a priority in this application, as this portion of Lowell Street represents a valid historic setting and context for both structures. The Board finds as follows:

1. The modification of dimensional requirements is necessary to protect and maintain a historic structure. The existing structure at 290 Lowell Street is a significant historic structure as certified by the Andover Preservation Commission. Providing a historic preservation deed restriction is beneficial in preserving the historic structure.
2. The proposed work on the existing historic structure being relocated from 58 Lowell Street is necessary to maintain the historical and architectural features of the structure and will be under the authority of the Andover Preservation Commission.
3. It is unlikely that the historic structure will be destroyed in the absence of a Dimensional Special Permit for Historic Preservation.
4. An interdepartmental review team meeting was held on 7/18/17 on this Application.
5. The Andover Preservation Commission supports this Application in its Letter of June 12, 2017 and memorandum of August 3, 2017.

Based on the forgoing arguments and findings, and the evidence presented at the public hearing, the Board concludes that the application for a dimensional special permit for historic preservation meets the standards and regulations set forth in the Zoning By-law, and therefore the project is eligible for a Dimensional Special Permit for Historic Preservation. The Board finds that providing a historic preservation deed restriction is beneficial in preserving the existing historic structure. Finally, the Board finds that the overall proposal, under §9.4.2 will not be unreasonably detrimental to the established or future character of the neighborhood and Town and that such is in harmony with the general purpose and intent of the By-law.

The Board votes unanimously (5-0) to grant the Special Permit for Historic Preservation under Article VIII, §7.9, subject to the following conditions:

1. The subdivision of the land shall be done in conformity with the Plan of Land submitted with the application entitled "Plan of Land in Andover, Mass. Prepared for O'Brien Homes, Inc.," dated October 12, 2017, as prepared by Andover Consultants, Inc.
2. Following the move of the historic structure from 58 Haverhill Street to its new location on Host Lot B at 290 Lowell Street, the Inspector of Buildings shall certify in writing to the Office of the Zoning Board of Appeals that the structure has been successfully moved in accordance with this Decision and placed on its new foundation, with all temporary supporting structures, including cribbing and beams used in transit, removed so that the

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- building is supported only by its new permanent foundation. No building permits for any additional work shall be issued until such certification has been made.
3. The rights granted by this Special Permit shall be deemed to be exercised only upon the successful relocation of the Robinson-Cohen-Barrett House to 290 Lowell Street in accordance with this Decision and its placement on its new permanent foundation, with all temporary supporting structures removed, and issuance of the certification by the Inspector of Buildings, all as described in Condition #2.
 4. If the Robinson-Cohen-Barrett House is not successfully relocated to Host Lot B at 290 Lowell Street as described Condition #2, this Special Permit shall be null and void and Host Lot B at 290 Lowell Street shall not be considered a buildable lot under the Zoning By-law. In the event that the Robinson-Cohen-Barrett House is destroyed or damaged beyond repair prior to being moved to its new location, this condition shall apply and the Special Permit shall be null and void.
 5. In the event of a catastrophic event which results in damage to the existing historic structure on Host Lot A at 290 Lowell Street such that the historic structure cannot be repaired, the owner may rebuild on the Host Lot, provided that the new structure does not contain more than the same interior floor area as the historic structure and meets one of the following requirements:
 - a. The new structure is placed in the same footprint as that occupied by the historic structure; or
 - b. The new structure is built in conformity with the zoning side, front and rear setbacks in effect at the time of rebuilding as set forth in Section 4.1.2 of the Zoning By-law.
 6. After the dimensional special permit for historic preservation has become final, any proposed alterations or changes to the historic structure shall be submitted to the Andover Preservation Commission for its review and approval. If the Preservation Commission determines that the proposed alteration or changes are not minor, the owner shall seek a modification of the special permit from the Board of Appeals.
 7. When the decision of the Board of Appeals on the application for a dimensional special permit for historic preservation has become final and has been recorded at the Registry of Deeds, the plan upon which the decision is based shall be submitted to the Andover Planning Board for certification as an Approval Not Required (ANR) plan pursuant to Chapter 41, Section 81P of the Massachusetts General Laws.
 8. The Approval Not Required (ANR) plan as certified by the Planning Board shall be recorded at the Essex North District Registry of Deeds.
 9. No building permit shall be issued until the ANR plan has been recorded at the Essex North District Registry of Deeds.
 10. Within thirty (30) days following the effective date of this decision, the applicant and/or his legal representative shall contact the Massachusetts Historical Commission to begin the application process for the preservation restriction as required by Condition #11 below.
 11. The owner shall record at the Essex North District Registry of Deeds an historic preservation restriction in the form approved by the Zoning Board of Appeals, and approved and endorsed by the Andover Board of Selectmen and by the Massachusetts Historical Commission in accordance with Chapter 184, Section 32, of the General Laws, which shall at a minimum provide for conditions under which alterations, additions or modifications may be made, and in the event of damage to the historic structure on Host Lot A such that the historic structure cannot be repaired, the owner may rebuild on the lot, provided that the new dwelling does not contain more than the same interior floor area as the historic structure and meets one of the

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following requirements: (i) the new dwelling is placed in the existing footprint; or (ii) the new dwelling is built in conformity with the zoning side, front and rear setbacks in effect at the time of rebuilding. Any mortgagee shall subordinate its mortgage to this restriction.

With respect to Variances, Section 9.2.2.2 of the Andover Zoning By-law grants the Board of Appeals the power: "To hear and decide appeals or petitions for variances from the terms of this by-law, including variances for uses, with respect to particular land or structures, owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, where a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and where desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law, all as set forth in G.L. c. 40A, s. 10."

The Board finds that the size of the Parent Parcel was reduced from a conforming lot size due to the taking of land by the Town of Andover in 1962, creating a lot size of less than the 30,000 SF required in the SRB district. This condition does not generally affect this district in the vicinity of the subject property. Due to these conditions, the Board finds that a literal enforcement of the Zoning By-law will result in a substantial hardship to the Applicant.

The subject application preserves two historic dwellings within the Town of Andover in an appropriate context. The Board therefore finds that relief may be granted without substantial detriment to the public good and without substantially derogating from the intent and purpose of the Zoning By-law.

Accordingly, the Board votes unanimously (5-0) to grant a Variance from the requirements of Article VIII, §7.9.4.2 to allow the preservation of the existing historic home and create a new Host Lot to relocate and preserve a second historic home, subject to the conditions listed above.

Members voting FOR the decision: Oltman, McDonough, Rechisky, Bordonaro, Faulk
Members voting AGAINST the decision: None


Elizabeth M. Oltman, Chair

EMO/bb

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CERTIFICATION

I, Lawrence J. Murphy, Town Clerk of the Town of Andover, Massachusetts do hereby certify that twenty days have elapsed since the above referenced decision of the Board of Appeals, which was filed in the office of the Town Clerk on December 8, 2017, and that no appeal has been filed with the Town Clerk.



Lawrence J. Murphy
Town Clerk
Andover, Massachusetts

Exhibit F

RESTRICTION GUIDELINES

In an effort to explain what constitutes a minor alteration and what constitutes a major change, which must be reviewed by the Andover Preservation Commission (APC) the following list has been developed. By no means is this list comprehensive: it is only a sampling of some of the more common alterations, which may be contemplated by building owners.

PAINT

Minor - Exterior hand scraping and repainting of non-decorative and non-significant surfaces as part of periodic maintenance.

Major - Painting or fully stripping decorative surfaces or distinctive stylistic features including ornamental woodwork.

WINDOWS AND DOORS

Minor - Regular maintenance including caulking, painting and necessary re-glazing. Repair or in-kind replacement of existing individual decayed window parts.

Major - Wholesale replacement of units; change in fenestration or materials; alteration of profile or setback of windows. The addition of storm windows is also considered a major change; however, with notification it is commonly acceptable.

EXTERIOR

Minor - Spot repair of existing cladding and roofing including in-kind replacement of clapboards, shingles, slates, etc.

Major - Large-scale repair or replacement of cladding or roofing. Change involving inappropriate removal or addition of materials or building elements (i.e. removal of chimneys or cornice detailing; installation of architectural detail which does not have a historical basis); altering or demolishing building additions; spot repointing of masonry. Structural stabilization of the Premises is also considered a major alteration.

LANDSCAPE/OUTBUILDINGS

Minor - Routine maintenance of outbuildings and landscape including lawn mowing, pruning, planting, painting, and repair.

Major - Moving or subdividing buildings or Premises; altering of Premises; altering or removing significant landscape features such as gardens, vistas, walks, plantings; ground disturbance affecting archaeological resources.

WALLS/PARTITIONS

Minor - Making fully reversible changes (i.e. sealing off doors in situ, leaving doors and door openings fully exposed) to the spatial arrangement of a non-significant portion of the building.

Major - Creating new openings in walls or permanently sealing off existing openings; adding permanent partitions which obscure significant original room arrangement;

demolishing existing walls; removing or altering stylistic features; altering primary staircases.

HEATING/AIR CONDITIONING/ELECTRICAL/PLUMBING SYSTEMS

Minor - Repair of existing systems.

Major - Installing or upgrading systems which will result in major appearance changes (i.e. disfigured walls or floors, exposed wiring, ducts, and piping); the removal of substantial quantities of original materials in the course of construction.

Changes classified as major alterations are not necessarily unacceptable. Under the preservation restriction such changes must be reviewed by the APC and their impact on the historic integrity of the premise assessed.

It is the responsibility of the Premises owner to notify the APC in writing when any major alterations are contemplated. Substantial alterations may necessitate review of plans and specifications.

The intent of the preservation restriction is to enable the APC to review proposed alterations and assess their impact on the integrity of the structure, not to preclude future change. APC will attempt to work with Premises owners to develop mutually satisfactory solutions, which are in the best interests of the Premises.

Exhibit G

Baseline Documentation



Photo 1, North and East Front Elevation, June, 2014



Photo 2, North and West Front Elevation, June 2014



Photo 3, South and East Elevation, June 2014



Photo 4, South and West Elevation, June 2014



Photo 5, East Elevation, June, 2014



Photo 6, North and West Elevation, January 2016



Photo 7, West Elevation, January 2016



Photo 8, South and West Elevation, January 2016



Photo 9, East and North Elevation, January 2016

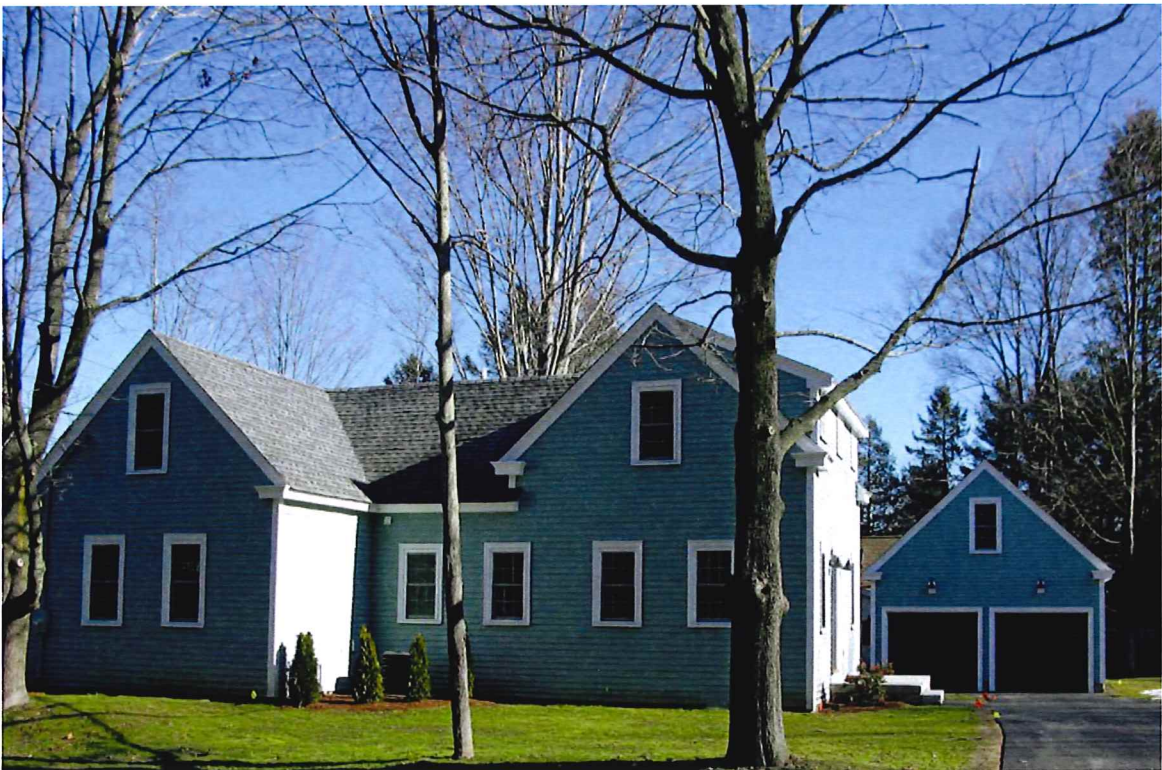


Photo 10, East Elevation, January 2016



Photo 11, South Elevation, July 2018

CERTIFICATE OF CONVEYANCE

I, hereby certify that on this ____ day of _____, 2018, this Preservation Restriction Agreement of the Premises, located at 290 Lowell Street, in Andover, Massachusetts was conveyed to the Town of Andover by and through the Andover Preservation Commission free and clear of all liens and encumbrances and that except for the following items, there are no other holders of any interest in the land:

Mark B Johnson
(Attorney for Grantor)

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

On this _____ day of _____, 2018, before me, the undersigned notary public, personally appeared, Mark B. Johnson attorney for grantor, proved to me through satisfactory evidence of identification, which was ☐ photographic identification with signature issued by a federal or state governmental agency, ☐ oath or affirmation of a credible witness, ☐ personal knowledge of the undersigned, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Notary Public:
My Commission Expires: